

CHAPTER 2.

TRANSPORTATION ENTITIES.

**Drafting note: A new chapter on Transportation Entities is created in Subtitle I. This chapter relocates all sections that relate to the powers, duties, and obligations of the Commonwealth Transportation Board, Commissioner of Highways, Department of Transportation, and Department of Rail and Public Transportation.**

Article 1.

Commonwealth Transportation Board; Membership and Organization.

**Drafting note: Existing Article 1, Commonwealth Transportation Board, is retained as the first article in Chapter 2 and includes all sections relating to the membership and organization of the Commonwealth Transportation Board in proposed Title 33.2.**

~~§ 33.1-1 33.2-XXX. State Highway and Transportation Board continued as Commonwealth Transportation Board; number and terms of members; removal from office; Commonwealth Transportation Commissioner continued as Commissioner of Highways; membership; terms; vacancies.~~

~~The State Highway and Transportation Board, formerly known as the State Highway and Transportation Commission, is continued and shall hereafter be known as the Commonwealth Transportation Board. Wherever either "Commission" or "Board" is used in this title referring to the State Highway and Transportation Board or the State Highway and Transportation Commission, it shall mean the Commonwealth Transportation Board.~~

The Board shall ~~consist~~ have a total membership of 18 members: that shall consist of 14 nonlegislative citizen members and four ex officio members as follows: the Secretary of Transportation, the Commissioner of Highways, the Director of the Department of Rail and Public Transportation, and the Executive Director of the Virginia Port Authority, ~~and 14 citizen members~~. The nonlegislative citizen members shall be ~~(i)~~ appointed by the Governor as provided in § ~~33.1-2 33.2-XXX, (ii)~~ subject to confirmation by the General Assembly, and ~~(iii)~~

~~removable from office during their respective terms by~~ shall serve at the pleasure of the Governor ~~at his pleasure~~. Appointments of nonlegislative citizen members shall be for terms of four years commencing ~~upon~~ on July 1, upon the expiration of the terms of the existing members, respectively. ~~The initial terms of the members appointed in January, 1987, shall commence when appointed and shall be for terms ending June 30, 1988, June 30, 1989, and June 30, 1990, respectively.~~ Vacancies shall be filled by appointment by the Governor for the unexpired term and shall be effective until 30 days after the next meeting of the ensuing General Assembly and, if confirmed, thereafter for the remainder of the term. No ~~person~~ nonlegislative citizen member shall be eligible to serve more than two ~~successive~~ consecutive four-year terms of four years, ~~other than the Secretary of Transportation, the Commissioner of Highways, the Director of the Department of Rail and Public Transportation, and the Executive Director of the Virginia Port Authority.~~ A person heretofore or hereafter appointed to fill a vacancy may serve two additional successive terms. The remainder of any term to which a member is appointed to fill a vacancy shall not constitute a term in determining that member's eligibility for reappointment. Ex officio members of the Board shall serve terms coincident with their terms of office.

The Secretary ~~of Transportation~~ shall serve as ~~Chairman~~ chairman of the Board. ~~The Secretary and~~ shall have voting privileges only in the event of a tie. The Commissioner of Highways shall serve as ~~Vice-Chairman~~ vice-chairman of the Board. ~~The Commissioner and~~ shall have voting privileges only in the event of a tie when he is presiding during the absence of the ~~Chairman~~ chairman. The Director of the Department of Rail and Public Transportation and the Executive Director of the Virginia Port Authority shall ~~serve without a vote~~ not have voting privileges.

~~Whenever in this title and in the Code of Virginia "State Highway Commission" or "State Highway and Transportation Board" is used, it shall mean "Commonwealth Transportation Board"; "State Highway Commissioner" or "State Highway and Transportation Commissioner" or "Commonwealth Transportation Commissioner" shall mean Commissioner~~

~~of Highways; and all references to "Department of Highways and Transportation" shall refer to the Department of Transportation.~~

**Drafting note: Existing § 33.1-1 was amended by Chapters 762 and 794 of the Acts of Assembly of 2013; those changes have been incorporated into the existing language. Nonessential references to former styles of the Commonwealth Transportation Board are eliminated, and obsolete language regarding initial staggering of terms is removed. Use of the term "nonlegislative citizen member" is derived from § 1-225 and is used in the recent establishment of boards and commissions by the General Assembly. Technical changes to modernize language are also made.**

~~§ 33.1-2 33.2-XXX. Residence Appointment~~ requirements; statewide interest.

Of ~~such~~ the members appointed to the Board, one member shall be a resident of the territory now included in the Bristol highway construction district, one in the Salem highway construction district, one in the Lynchburg highway construction district, one in the Staunton highway construction district, one in the Culpeper highway construction district, one in the Fredericksburg highway construction district, one in the Richmond highway construction district, one in the Hampton Roads highway construction district, and one in the Northern Virginia highway construction district. The remaining five members shall be appointed from the Commonwealth at large, ~~but provided that~~ at least two ~~shall~~ reside in ~~standard~~ metropolitan statistical areas and ~~be are~~ designated as urban at-large members; and at least two ~~shall~~ reside outside ~~standard~~ metropolitan statistical areas and ~~be are~~ designated as rural at-large members. The at-large members shall be appointed to represent rural and urban transportation needs and to be mindful of the concerns of seaports and seaport users, airports and airport users, railways and railway users, and mass transit and mass transit users. Each appointed member ~~so appointed of the Board~~ shall be primarily mindful of the best interest of the Commonwealth at large primarily instead of ~~those the interests~~ of the highway construction district from which chosen or of the transportation interest represented.

**Drafting note: Technical changes include making the name for highway construction districts consistent throughout this title. The change to the catchline is made to more accurately reflect the content of the section. The term "standard metropolitan statistical area" was changed by the U.S. Office of Management and Budget and the U.S. Census Bureau to "metropolitan statistical area" in 1983; removing the word "standard" conforms the term to current usage. Each metropolitan statistical area must have at least one urbanized area of 50,000 or more inhabitants. Metropolitan statistical areas are defined in terms of whole counties or equivalent areas.**

~~§ 33.1-5.~~

**Drafting note: Repealed by Chapter 728 of the Acts of Assembly of 1980.**

~~§ 33.1-6~~ § 33.2-XXX. Meetings; quorum; minutes.

The Board shall meet at least once ~~in~~ every three months and at such other times, on the call of the chairman or of a majority of the members, as may be deemed necessary to transact such business as may properly be brought before it. Six members shall constitute a quorum of the Board for all purposes.

It shall be the duty of the Board to keep accurate minutes of all meetings of the Board, in which shall be set forth all acts and proceedings of the Board in carrying out the provisions of this title.

**Drafting note: Technical change.**

~~§ 33.1-10~~ § 33.2-XXX. Salaries and expenses of the Commonwealth Transportation Board; how paid.

All salaries and expenses of the Board shall be paid from the state treasury out of the annual appropriation for the ~~Commonwealth Transportation~~ Board. Warrants for such salaries and expenses shall be issued by the Comptroller on certificates of the Commissioner of Highways to the parties entitled thereto; and shall be paid by the State Treasurer out of the funds appropriated for that purpose.

**Drafting note: Technical changes.**

§ ~~33.1-7~~ 33.2-XXX. Offices.

The main office of the Board, the Department of Transportation, and the Department of Rail and Public Transportation shall be located in the City of Richmond. In the discretion of the Commissioner of Highways, other offices of the Department of Transportation may be established in the various highway construction districts of the Commonwealth as may be necessary ~~or needful~~ to carry out the provisions of this title.

**Drafting note: Existing § 33.1-7 was amended by Chapters 585 and 646 of the Acts of Assembly of 2013; those changes have been incorporated into the existing language. Technical changes are made, including using the full term "highway construction districts."**

§ ~~33.1-9~~ 33.2-XXX. Oaths and bonds of members of the Commonwealth Transportation Board.

~~The members~~ Each member of the ~~Commonwealth Transportation~~ Board shall ~~each~~, before entering upon the discharge of his duties, take an oath that he will faithfully and honestly execute the duties of the office during his continuance therein, and each shall give a bond in such penalty as may be fixed by the Governor conditioned upon the faithful discharge of the duties of his office and the full and proper accounting for all public funds and property coming into his possession or under his control. The premium on such bonds shall be paid out of the state treasury out of the annual appropriation for the ~~Commonwealth Transportation~~ Board.

**Drafting note: Technical changes.**

§ ~~33.1-4~~ 33.2-XXX. How testimony of members of Commonwealth Transportation Board and Commissioner of Highways taken in civil proceedings.

No member of the ~~Commonwealth Transportation~~ Board or the Commissioner of Highways shall be required to leave his office for the purpose of testifying in any suit, action, or other civil proceeding involving any of ~~their~~ his official duties, but the deposition of any member of the ~~Commonwealth Transportation~~ Board or the Commissioner of Highways may be

134 taken at the main office of the ~~Commission~~ Board in Richmond, after reasonable notice in  
135 writing has been given to the adverse party.

136 Any deposition taken pursuant to this section may be read in the pending suit, action, or  
137 other civil proceeding. However, on motion to the court, filed at least ~~ten~~ 10 days before the  
138 commencement of the trial, the judge may, for good cause shown, require any member of the  
139 Board or the Commissioner of Highways to attend and testify ore tenus.

140 **Drafting note: Technical changes.**

141 ~~§ 33.1-14~~ § 33.2-XXX. Bookkeeping system.

142 The chairman of the Board shall, with the aid and advice of the Auditor of Public  
143 Accounts, cause to be maintained a complete and modern system of bookkeeping for the  
144 Department ~~of Transportation~~, and the books to be kept by the Department shall show in detail  
145 all receipts and disbursements of the Department, the source of such receipts, and the purpose,  
146 amount, and recipient of all disbursements.

147 **Drafting note: Technical changes.**

148 Article 2.

149 Commonwealth Transportation Board; Powers and Duties.

150 **Drafting note: This new Article 2 consolidates the powers and duties of the Board,**  
151 **generally by splitting existing § 33.1-12 into multiple sections, each dealing with one major**  
152 **power or duty of the Board, and pulling related sections from other parts of existing**  
153 **Chapter 1 of Title 33.1 with such powers and duties. Existing § 33.1-12 is first stricken in**  
154 **its entirety; its reordered parts are reentered as existing language and amended in this**  
155 **proposed Article 2. Existing § 33.1-12 was amended by Chapters 388, 569, 585, 646, and**  
156 **741 of the Acts of Assembly of 2013; those changes have been incorporated into existing**  
157 **language in this document.**

158 ~~§ 33.1-12. General powers and duties of Board, etc.; definitions.~~

159 ~~The Commonwealth Transportation Board shall be vested with the following powers and~~  
160 ~~shall have the following duties:~~

~~(1) Location of routes. To locate and establish the routes to be followed by the roads comprising systems of state highways between the points designated in the establishment of such systems, except that such routes shall not include roads located within any local system of roads, within the urban system of highways, or those local roads in any county that has resumed full responsibility for all of the secondary system of highways within such county's boundaries pursuant to § 33.1-84.1. Such routes shall include corridors of statewide significance pursuant to § 33.1-23.03.~~

~~(2) Construction and maintenance contracts and activities related to passenger and freight rail and public transportation.~~

~~(a) To let all contracts to be administered by the Virginia Department of Transportation or the Department of Rail and Public Transportation for the construction, maintenance, and improvement of the roads comprising systems of state highways and for all activities related to passenger and freight rail and public transportation in excess of \$5 million. The Commissioner of Highways shall have authority to let all Virginia Department of Transportation administered contracts for highway construction, maintenance, and improvements up to \$5 million in value. The Director of the Department of Rail and Public Transportation shall have the authority to let contracts for passenger and freight rail and public transportation improvements up to \$5 million in value. The Commissioner of Highways is authorized to enter into agreements with localities, authorities, and transportation districts to administer projects and to allow those localities, authorities, and transportation districts to let contracts with no limit on contract value, and without prior concurrence of the Commissioner of Highways or the Board for highway construction, maintenance, and improvements within their jurisdictions, in accordance with those provisions of the Code of Virginia providing those localities, authorities, and transportation districts the ability to let such contracts. The Director of the Department of Rail and Public Transportation is authorized to enter into agreements with localities, authorities, and transportation districts to administer projects and to allow those localities, authorities, and transportation districts to let contracts with no limit on contract value, and without prior~~

~~concurrence of the Director of the Department of Rail and Public Transportation or the Board for passenger and freight rail and public transportation activities within their jurisdictions, in accordance with those provisions of the Code of Virginia providing those localities, authorities, and transportation districts the ability to let such contracts. The Commissioner of Highways and the Director of the Department of Rail and Public Transportation shall report on their respective transportation contracting activities at least quarterly to the Board.~~

~~(b) The Commonwealth Transportation Board may award contracts for the construction of transportation projects on a design-build basis. These contracts may be awarded after a written determination is made by the Commissioner of Highways or the Director of the Department of Rail and Public Transportation, pursuant to objective criteria previously adopted by the Board regarding the use of design-build, that delivery of the projects must be expedited and that it is not in the public interest to comply with the design and construction contracting procedures normally followed. Such objective criteria will include requirements for prequalification of contractors and competitive bidding processes. These contracts shall be of such size and scope to encourage maximum competition and participation by agency prequalified and otherwise qualified contractors. Such determination shall be retained for public inspection in the official records of the Department of Transportation or the Department of Rail and Public Transportation, as the case may be, and shall include a description of the nature and scope of the project and the reasons for the Commissioner's or Director's determination that awarding a design-build contract will best serve the public interest. The provisions of this section shall supersede contrary provisions of subsection D of § 2.2-4303 and § 2.2-4306.~~

~~(c) The Commonwealth Transportation Board may award contracts for the provision of equipment, materials, and supplies to be used in construction of transportation projects on a fixed-price basis. Any such contract may provide that the price to be paid for the provision of equipment, materials, and supplies to be furnished in connection with the projects shall not be increased but shall remain fixed until completion of the projects specified in the contracts. Material components of any such contract for annual and multi-year programs, including but not~~



~~limited to maintenance, may be fixed at the outset of the projects and until completion based on best achievable prices.~~

~~(3) Traffic regulations. To make rules and regulations, from time to time, not in conflict with the laws of the Commonwealth, for the protection of and covering traffic on and the use of systems of state highways and to add to, amend or repeal the same.~~

~~(4) Naming highways, bridges, interchanges, and other transportation facilities. To give suitable names to state highways, bridges, interchanges, and other transportation facilities, and change the names of any highways, bridges, interchanges, or other transportation facilities forming a part of the systems of state highways. The name of private entities, as defined in § 56-557, located within the Commonwealth shall not be used for such purposes unless such private entity pays to the Department of Transportation an annual naming rights fee as determined by the Board. The Department of Transportation shall place and maintain appropriate signs indicating the names of highways, bridges, interchanges, and other transportation facilities named by the Board or by the General Assembly. The costs of producing, placing, and maintaining these signs shall be paid by the counties, cities, and towns in which they are located or by the private entity whose name is attached to the highway, bridge, interchange, or other transportation facility. No name shall be given to any state highway, bridge, interchange, or other transportation facility by the Commonwealth Transportation Board unless and until the Commonwealth Transportation Board shall have received from the local governing body of the locality within which a portion of the facility to be named is located a resolution of that governing body requesting such naming, except in such cases where a private entity has requested such naming. No highway, bridge, interchange, or other transportation facility previously named by the Board or the General Assembly shall be eligible for renaming by a private entity, unless such naming incorporates the previous name. The Board shall develop and approve guidelines governing the naming of highways, bridges, interchanges, and other transportation facilities by private entities and the applicable fees for such naming rights. Such fees shall be deposited in the Highway Maintenance and Operating Fund.~~

~~No name shall be eligible for the naming rights under this subdivision if it in any way reasonably connotes anything that (i) is profane, obscene, or vulgar; (ii) is sexually explicit or graphic; (iii) is excretory related; (iv) is descriptive of intimate body parts or genitals; (v) is descriptive of illegal activities or substances; (vi) condones or encourages violence; or (vii) is socially, racially, or ethnically offensive or disparaging.~~

~~(5) Compliance with federal acts. To comply fully with the provisions of the present or future federal aid acts. The Board may enter into all contracts or agreements with the United States government and may do all other things necessary to carry out fully the cooperation contemplated and provided for by present or future acts of Congress in the area of transportation.~~

~~(6) Policies and operation of Departments. To review and approve policies and transportation objectives of the Department of Transportation and the Department of Rail and Public Transportation, to assist in establishing such policies and objectives, to oversee the execution thereof, and to report thereon to the Commissioner of Highways and the Director of the Department of Rail and Public Transportation.~~

~~(7) Transportation.~~

~~(a) To monitor and, where necessary, approve actions taken by the Department of Rail and Public Transportation pursuant to Chapter 10.1 (§ 33.1-391.1 et seq.) in order to ensure the efficient and economical development of public transportation, the enhancement of rail transportation, and the coordination of such rail and public transportation plans with highway programs.~~

~~(b) To coordinate the planning for financing of transportation needs, including needs for highways, railways, seaports, airports, and public transportation and to set aside funds as provided in § 33.1-23.03:1. To allocate funds for these needs pursuant to §§ 33.1-23.1 and 58.1-638, the Board shall adopt a Six-Year Improvement Program of anticipated projects and programs by July 1 of each year. This program shall be based on the most recent official Transportation Trust Fund revenue forecast and shall be consistent with a debt management~~

~~policy adopted by the Board in consultation with the Debt Capacity Advisory Committee and the Department of the Treasury.~~

~~(c) To enter into contracts with local districts, commissions, agencies, or other entities created for transportation purposes.~~

~~(d) To promote increasing private investment in Virginia's transportation infrastructure, including but not limited to acquisition of causeways, bridges, tunnels, highways, and other transportation facilities.~~

~~(e) To integrate land use with transportation planning and programming, consistent with the efficient and economical use of public funds. If the Board determines that a local transportation plan described in § 15.2-2223 or any amendment as described in § 15.2-2229 or a metropolitan regional long-range transportation plan or regional Transportation Improvement Program as described in § 33.1-223.2:25 is not consistent with the Commonwealth Transportation Board's Statewide Transportation Plan developed pursuant to § 33.1-23.03, the Six Year Improvement Program adopted pursuant to subdivision (7)(b), and the location of routes to be followed by roads comprising systems of state highways pursuant to subdivision (1), the Board shall notify the locality of such inconsistency and request that the applicable plan or program be amended accordingly. If, after a reasonable time, the Board determines that there is a refusal to amend the plan or program, then the Board may reallocate funds that were allocated to the nonconforming project as permitted by state or federal law. However, the Board shall not reallocate any funds allocated pursuant to § 33.1-23.3, 33.1-23.5:1, 33.1-41.1, or 33.1-44, based on a determination of inconsistency with the Commonwealth Transportation Board's Statewide Transportation Plan or the Six Year Improvement Program nor shall the Board reallocate any funds, allocated pursuant to subdivision B-3 of § 33.1-23.1, from any projects on highways controlled by any county that has withdrawn, or elects to withdraw, from the secondary system of state highways based on a determination of inconsistency with the Commonwealth Transportation Board's Statewide Transportation Plan or the Six Year Improvement Program. If a locality or metropolitan planning organization requests the~~

~~termination of a project, and the Department of Transportation does not agree to the termination, or if a locality or metropolitan planning organization does not advance a project to the next phase of construction when requested by the Board and the Department of Transportation has expended state or federal funds, the locality or the localities within the metropolitan planning organization may be required to reimburse the Department of Transportation for all funds expended on the project. If, after design approval by the Chief Engineer of the Department of Transportation, a locality or metropolitan planning organization requests alterations to a project that, in the aggregate, exceeds 10 percent of the total project costs, the locality or the localities within the metropolitan planning organization may be required to reimburse the Department of Transportation for the additional project costs above the original estimates for making such alterations.~~

~~(8) Contracts with other states. To enter into all contracts with other states necessary for the proper coordination of the location, construction, maintenance, improvement, and operation of transportation systems, including the systems of state highways with the highways of such other states and, where necessary, to seek the approval of such contracts by the Congress of the United States.~~

~~(9) Use of funds. To administer, distribute, and allocate funds in the Transportation Trust Fund as provided by law. The Commonwealth Transportation Board shall ensure that the total funds allocated to any highway construction project are equal to total expenditures within 12 months following completion of the project. However, this requirement shall not apply to debt service apportionments pursuant to § 33.1-23.3 or 33.1-23.4.~~

~~(10) Financial and investment advisors. With the advice of the Secretary of Finance and the State Treasurer, to engage a financial advisor and investment advisor who may be anyone within or without the government of the Commonwealth, to assist in planning and making decisions concerning the investment of funds and the use of bonds for transportation purposes. The work of these advisors shall be coordinated with the Secretary of Finance and the State Treasurer.~~

~~(11) The powers of the Virginia Aviation Board set out in Chapter 1 (§ 5.1-1 et seq.) of Title 5.1 and the Virginia Port Authority set out in Chapter 10 (§ 62.1-128 et seq.) of Title 62.1 are in no way diminished by the provisions of this title.~~

~~(12) To enter into payment agreements with the Treasury Board related to payments on bonds issued by the Commonwealth Transportation Board.~~

~~(13) Establishment of highway user fees for the systems of state highways. When the traffic-carrying capacity of any system of state highways or a portion thereof is increased by construction or improvement, the Commonwealth Transportation Board may enter into agreements with localities, authorities, and transportation districts to establish highway user fees for such system of state highways or portion thereof that the localities, authorities, and transportation districts maintain.~~

~~The term "public transportation" or "mass transit" as used in this title means passenger transportation by rubber tired, rail, or other surface conveyance which provides shared ride services open to the general public on a regular and continuing basis. The term does not include school buses; charter or sight-seeing service; vehicular ferry service that serves as a link in the highway network; or human service agency or other client-restricted transportation.~~

**Drafting note: Existing § 33.1-12 was amended by Chapters 388, 569, 646, and 741 of the 2013 Acts of Assembly and those changes are incorporated here and as each subdivision is set out. This section is split into multiple sections, each dealing with one major power or duty of the Board. To clearly indicate preservation of and changes to existing language, § 33.1-12 is stricken in its entirety; its reordered parts are reentered as existing language and amended in proposed Article 2.**

~~(1) § 33.2-XXX.~~ Location of routes.

~~To~~ A. The Board shall have the power and duty to locate and establish the routes to be followed by the ~~roads~~ highways comprising systems of state highways between the points designated in the establishment of such systems, except that such routes shall not include ~~roads~~ highways located within any local system of ~~roads~~ highways, within the urban highway system

~~of highways~~, or those local ~~roads~~ highways in any county that has resumed full responsibility for all of the secondary state highway system ~~of highways~~ within such county's boundaries pursuant to § ~~33.1-84.1~~ 33.2-XXX. Such routes to be located and established shall include corridors of statewide significance pursuant to § ~~33.1-23.03~~ 33.2-XXX.

~~§ 33.1-18. Location of routes.~~

B. The ~~Commonwealth Transportation~~ Board shall not locate and establish any route ~~under subdivision (1) of § 33.1-12 pursuant to this section~~ until: the Department ~~of Transportation~~ has (i) published in a newspaper published or having a general circulation in the ~~county, city, or town~~ locality in which the route is to be located and established a notice of its willingness to hold a public hearing on the matter, (ii) notified the governing body of the ~~county, city, or town~~ locality in which the route is to be located of its willingness to hold a public hearing on the matter, and (iii) held a public hearing, if one has been requested.

If a public hearing is requested, written notice of the time and place of the hearing shall be given; not less than ~~thirty~~ 30 days prior to the hearing; to the governing body of the ~~county, city, or town~~ locality in which the route is to be located and established. Not less than ~~thirty~~ 30 days prior to the hearing, a notice of the time and place of the hearing shall also be published by the Department ~~of Transportation~~ at least once in a newspaper published or having a general circulation in the ~~county, city, or town~~ locality in which the route is to be located and established.

All public hearings on the location or possible location of a route shall be open forums that afford citizens opportunities to obtain route location information and other pertinent information on a proposed project; and to submit their hearing comments in writing or to present them directly to a verbatim recorder. In addition, upon the written request of a member of the governing body of the ~~county, city, or town~~ locality in which the route is proposed to be located, or upon the written request of ~~twenty-five~~ 25 citizens, these public hearings shall afford citizens an opportunity to present their comments to representatives of the Department ~~of Transportation~~ directly, one speaker at a time, in a public forum following a traditional hearing format. A

written request for a traditional hearing must be received within ~~fourteen~~ 14 days following the first published notice of the hearing or willingness to hold a hearing.

Following the public hearing, if one is held as provided in this section, the Department ~~of Transportation~~ shall notify the ~~local~~ governing body of the affected ~~county, city, or town~~ locality of the ~~Commonwealth Transportation~~ Board's decision regarding the location and establishment of the route.

**Drafting note: Existing § 33.1-12 is split into multiple sections, each dealing with one major power or duty of the Board. In this instance, existing § 33.1-18 is combined with subdivision (1) of existing § 33.1-12 so that all powers, etc., relating to location of routes are in a single location. References are changed from "road" to "highway" and from "county, city, or town" to "locality" to maintain consistency throughout proposed Title 33.2 and the Code. Technical changes are also made.**

~~(2) Construction § 33.2-XXX. Commonwealth Transportation Board powers and duties regarding construction~~ and maintenance contracts and activities related to passenger and freight rail and public transportation.

~~(a) To~~ A. The Board shall have the power and duty to let all contracts to be administered by the ~~Virginia~~ Department of Transportation or the Department of Rail and Public Transportation for the construction, maintenance, and improvement of the ~~roads~~ highways comprising systems of state highways and for all activities related to passenger and freight rail and public transportation in excess of \$5 million. The Commissioner of Highways shall have the authority to let all ~~Virginia~~ Department of Transportation-administered contracts for highway construction, maintenance, and improvements up to \$5 million in value. The Director of the Department of Rail and Public Transportation shall have the authority to let contracts for passenger and freight rail and public transportation improvements up to \$5 million in value. The Commissioner of Highways is authorized to enter into agreements with localities, authorities, and transportation districts to administer projects and to allow those localities, authorities, and transportation districts to let contracts with no limit on contract value; and without prior

concurrency of the Commissioner of Highways or the Board for highway construction, maintenance, and improvements within their jurisdictions, in accordance with those provisions of ~~the this~~ Code ~~of Virginia~~ providing those localities, authorities, and transportation districts the ability to let such contracts. The Director of the Department of Rail and Public Transportation is authorized to enter into agreements with localities, authorities, and transportation districts to administer projects and to allow those localities, authorities, and transportation districts to let contracts with no limit on contract value, and without prior concurrency of the Director of the Department of Rail and Public Transportation or the Board for passenger and freight rail and public transportation activities within their jurisdictions, in accordance with those provisions of ~~the this~~ Code ~~of Virginia~~ providing those localities, authorities, and transportation districts the ability to let such contracts. The Commissioner of Highways and the Director of the Department of Rail and Public Transportation shall report on their respective transportation contracting activities at least quarterly to the Board.

~~(b) B.~~ The ~~Commonwealth Transportation~~ Board may award contracts for the construction of transportation projects on a design-build basis. These contracts may be awarded after a written determination is made by the Commissioner of Highways or the Director of the Department of Rail and Public Transportation, pursuant to objective criteria previously adopted by the Board regarding the use of design-build, that delivery of the projects must be expedited and that it is not in the public interest to comply with the design and construction contracting procedures normally followed. Such objective criteria ~~will~~ shall include requirements for prequalification of contractors and competitive bidding processes. These contracts shall be of such size and scope to encourage maximum competition and participation by agency prequalified and otherwise qualified contractors. Such determination shall be retained for public inspection in the official records of the Department of Transportation or the Department of Rail and Public Transportation, as the case may be, and shall include a description of the nature and scope of the project and the reasons for the Commissioner's or the Director's determination that



awarding a design-build contract will best serve the public interest. The provisions of this section shall supersede contrary provisions of subsection D of § 2.2-4303 and § 2.2-4306.

~~(e) C.~~ The ~~Commonwealth Transportation~~ Board may award contracts for the provision of equipment, materials, and supplies to be used in construction of transportation projects on a fixed-price basis. Any such contract may provide that the price to be paid for the provision of equipment, materials, and supplies to be furnished in connection with the projects shall not be increased but shall remain fixed until completion of the projects specified in the contracts. Material components of any such contract for annual and ~~multi-year~~ multiyear programs, including ~~but not limited to~~ maintenance, may be fixed at the outset of the projects and until completion based on best achievable prices.

**Drafting note: This proposed section is derived from subdivision (2) of existing § 33.1-12, including subdivisions (2) (a) through (c). In subsection C and in other proposed sections, "but not limited to" or similar language is removed when using the term "including" based on § 1-218, which states, "'Includes' means includes, but not limited to." A reference is changed from "road" to "highway" to maintain consistency throughout proposed Title 33.2. Technical changes are also made.**

~~(3) § 33.2-XXX.~~ Traffic regulations.

~~To A. The Board shall have the power and duty to~~ make ~~rules and~~ regulations, ~~from time to time, that are~~ not in conflict with the laws of the Commonwealth; for the protection of and covering traffic on and for the use of systems of state highways and ~~to shall have the authority to~~ add to, amend, or repeal ~~the same such regulations.~~

~~§ 33.1-19. Effect of Board's rules and regulations.~~

B. The ~~rules and~~ regulations, together with any additions or amendments thereto, prescribed by the Board under the ~~provisions authority~~ of ~~subdivision (3) of § 33.1-12, this section~~ shall have the force and effect of law, and any person, firm, or corporation violating any such ~~rule or~~ regulation or any addition or amendment thereto ~~shall be is~~ guilty of a misdemeanor and, ~~upon conviction, be fined~~ punishable by a fine of not less than \$5 nor more than \$100 for

each offense. Such person shall be civilly liable to the Commonwealth for the actual damage sustained by the Commonwealth by reason of his wrongful act. Such damages may be recovered at the suit of the ~~Commonwealth Transportation~~ Board and, when collected, paid into the state treasury to the credit of the Department ~~of Transportation~~. Any ~~rules and~~ regulations promulgated by the Board shall be developed in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) except when specifically exempted by law.

**Drafting note: Existing subdivision (3) of § 33.1-12 and existing § 33.1-19 are combined since both pertain to traffic regulations created by the Board. Per recommendation of the Code Commission, use of "regulations" is preferred over "rules and regulations" in the Code; this phrase is changed accordingly. Technical changes are also made.**

~~§ 33.1-22~~ § 33.2-XXX. Copies of ~~rules~~ regulations as evidence.

Copies of ~~such rules and~~ regulations of the Board and of additions or amendments thereto, printed under the authority of the ~~Commonwealth Transportation~~ Board, shall be admissible in all of the courts of ~~this the~~ Commonwealth without further proof and given the force and effect prescribed hereby, and the fact that such printed copies bear the name of the ~~Commonwealth Transportation~~ Board shall be prima facie evidence that they are duly adopted and promulgated under the provisions ~~hereof of this title~~ and that they are true copies of the ~~rules and~~ regulations, or of any additions and amendments thereto, adopted pursuant to the provisions of ~~subdivision (3) of § 33.1-12~~ § 33.2-XXX.

**Drafting note: Technical changes. Per recommendation of the Code Commission, use of "regulations" is preferred over "rules and regulations" in the Code; this phrase is changed accordingly.**

~~§ 33.1-23~~ § 33.2-XXX. Sections not applicable to certain engines and tractors.

The provisions of ~~subdivision (3) of § 33.1-12 and of §§ 33.1-19 and 33.1-22~~ §§ 33.2-XXX and 33.2-XXX shall not apply to traction engines and tractors, weighing not less than five tons, when drawing threshing machines, hay balers, or other farm machinery for local farm use.

**Drafting note: This section is moved to this proposed Article 2 on powers and duties of the Board because it relates to regulations of the Board in the two previous sections. Technical changes are made.**

~~(4)~~ § 33.2-XXX. Naming highways, bridges, interchanges, and other transportation facilities.

~~To A. The Board shall have the power and duty to~~ give suitable names to state highways, bridges, interchanges, and other transportation facilities; and change the names of any highways, bridges, interchanges, or other transportation facilities forming a part of the systems of state highways. The ~~name~~ names of private entities, as defined in ~~§ 56-557~~ § 33.2-XXX, located within the Commonwealth shall not be used for such purposes unless such private entity pays ~~to the~~ Department ~~of Transportation~~ an annual naming rights fee as determined by the Board. The Department ~~of Transportation~~ shall place and maintain appropriate signs indicating the names of highways, bridges, interchanges, and other transportation facilities named by the Board or by the General Assembly. The costs of producing, placing, and maintaining these signs shall be paid by the ~~counties, cities, and towns~~ localities in which they are located or by the private entity whose name is attached to the highway, bridge, interchange, or other transportation facility. No name shall be given to any state highway, bridge, interchange, or other transportation facility by the ~~Commonwealth Transportation~~ Board unless and until the ~~Commonwealth Transportation~~ Board ~~shall have received~~ receives from the ~~local~~ governing body of the locality within which a portion of the facility to be named is located a resolution of that governing body requesting such naming, except in such cases where a private entity has requested ~~such~~ the naming. No highway, bridge, interchange, or other transportation facility previously named by the Board or the General Assembly shall be eligible for renaming by a private entity, unless such naming incorporates the previous name. The Board shall develop and approve guidelines governing the naming of highways, bridges, interchanges, and other transportation facilities by private entities and the applicable fees for such naming rights. Such fees shall be deposited in the Highway Maintenance and Operating Fund.

No name shall be eligible for the naming rights under this ~~subdivision~~ section if it in any way reasonably connotes anything that (i) is profane, obscene, or vulgar; (ii) is sexually explicit or graphic; (iii) is excretory related; (iv) is descriptive of intimate body parts or genitals; (v) is descriptive of illegal activities or substances; (vi) condones or encourages violence; or (vii) is socially, racially, or ethnically offensive or disparaging.

**Drafting note: This proposed section is derived from subdivision (4) of existing § 33.1-12, which is split into multiple sections, each dealing with one major power or duty of the Board. This power of the Board deals with naming of highways and similar transportation facilities by the Board. Technical changes are also made.**

~~§ 33.1-182. Route names.~~

~~All laws now in effect designating certain names for certain routes or combinations of routes in the State Highway System and/or the secondary system of state highways, as hereafter amended, are continued in effect.~~

**Drafting note: This obsolete section continuing statutes in effect is recommended for repeal, consistent with other recommendations made to the Code Commission.**

~~§ 33.1-223.2:15. Use of certain federal "transportation enhancement" grants.~~

~~The Commonwealth Transportation Board shall, in accordance with federal law and guidelines for projects qualifying as "transportation enhancements" as defined in 23 U.S.C. § 101(a)(35), take such measures as may appear necessary or convenient to consider projects that will (i) address improvements to highway rest areas and welcome centers and (ii) accommodate anticipated quadricentennial tourism in Virginia.~~

**Drafting note: This section is recommended for repeal because the projects contemplated in this section no longer qualify as federal "transportation enhancements," now called "transportation alternatives."**

~~(7) § 33.2-XXX. Transportation: Six-Year Improvement Program.~~

~~(a) To A. The Board shall have the power and duty to monitor and, where necessary, approve actions taken by the Department of Rail and Public Transportation pursuant to Chapter~~

~~10.1 Article XXX~~ (§ ~~33.1-391.1~~ ~~33.2-XXX~~ et seq.) in order to ensure the efficient and economical development of public transportation, the enhancement of rail transportation, and the coordination of such rail and public transportation plans with highway programs.

~~(b) To~~ B. The Board shall have the power and duty to coordinate the planning for financing of transportation needs, including needs for highways, railways, seaports, airports, and public transportation and ~~to~~ set aside funds as provided in § ~~33.1-23.03:1~~ ~~33.2-XXX~~. To allocate funds for these needs pursuant to §§ ~~33.1-23.1~~ ~~33.2-XXX~~ and 58.1-638, the Board shall adopt a Six-Year Improvement Program of anticipated projects and programs by July 1 of each year. This program shall be based on the most recent official Transportation Trust Fund revenue forecast and shall be consistent with a debt management policy adopted by the Board in consultation with the Debt Capacity Advisory Committee and the Department of the Treasury.

~~(c) To~~ C. The Board shall have the power and duty to enter into contracts with local districts, commissions, agencies, or other entities created for transportation purposes.

~~(d) To~~ D. The Board shall have the power and duty to promote increasing private investment in ~~Virginia's the Commonwealth's~~ transportation infrastructure, including ~~but not limited to~~ acquisition of causeways, bridges, tunnels, highways, and other transportation facilities.

~~(e) To~~ E. The Board shall have the power and duty to integrate land use with transportation planning and programming, consistent with the efficient and economical use of public funds. If the Board determines that a local transportation plan described in § 15.2-2223 or any amendment as described in § 15.2-2229 or a metropolitan regional long-range transportation plan or regional Transportation Improvement Program as described in § ~~33.1-223.2:25~~ ~~33.2-XXX~~ is not consistent with the ~~Commonwealth Transportation~~ Board's Statewide Transportation Plan developed pursuant to § ~~33.1-23.03~~ ~~33.2-XXX~~, the Six-Year Improvement Program adopted pursuant to ~~subdivision (7)(b)~~ subsection B, and the location of routes to be followed by roads comprising systems of state highways pursuant to ~~subdivision (1)~~ § 33.2-XXX, the Board shall notify the locality of such inconsistency and request that the applicable

plan or program be amended accordingly. If, after a reasonable time, the Board determines that there is a refusal to amend the plan or program, then the Board may reallocate funds that were allocated to the nonconforming project as permitted by state or federal law. However, the Board shall not reallocate any funds allocated pursuant to § ~~33.1 23.3, 33.1 23.5:1, 33.1 41.1, or 33.1 44 33.2-XXX~~, based on a determination of inconsistency with the ~~Commonwealth Transportation~~ Board's Statewide Transportation Plan or the Six-Year Improvement Program nor shall the Board reallocate any funds, allocated pursuant to subdivision B 3 of § ~~33.1 23.1 33.2-XXX~~, from any projects on highways controlled by any county that has withdrawn, or elects to withdraw, from the secondary system of state highways based on a determination of inconsistency with the ~~Commonwealth Transportation~~ Board's Statewide Transportation Plan or the Six-Year Improvement Program. If a locality or metropolitan planning organization requests the termination of a project, and the Department ~~of Transportation~~ does not agree to the termination, or if a locality or metropolitan planning organization does not advance a project to the next phase of construction when requested by the Board and the Department ~~of Transportation~~ has expended state or federal funds, the locality or the localities within the metropolitan planning organization may be required to reimburse the Department ~~of Transportation~~ for all funds expended on the project. If, after design approval by the Chief Engineer of the Department ~~of Transportation~~, a locality or metropolitan planning organization requests alterations to a project that, in the aggregate, exceeds 10 percent of the total project costs, the locality or the localities within the metropolitan planning organization may be required to reimburse the Department ~~of Transportation~~ for the additional project costs above the original estimates for making such alterations.

**Drafting note: This proposed section is derived from subdivision (7) of existing § 33.1-12, including subdivisions (7) (a) through (e). Technical changes are also made.**

~~(6) § 33.2-XXX.~~ Policies and operation of Departments.

~~To~~ The Board shall have the power and duty to review and approve policies and transportation objectives of the Department of Transportation and the Department of Rail and

Public Transportation, to assist in establishing such policies and objectives, to oversee the execution thereof, and to report ~~thereon~~ on these policies and objectives to the Commissioner of Highways and the Director of the Department of Rail and Public Transportation, respectively.

**Drafting note: This proposed section is derived from subdivision (6) of existing § 33.1-12. Technical changes are also made.**

§ ~~33.1-206.1~~ 33.2-XXX. Roadside memorials; installation, maintenance, and removal standards; installation of nonconforming memorial prohibited; penalty.

A. The ~~Commonwealth Transportation~~ Board shall establish regulations regarding size, distance from the roadway, and other safety concerns, to govern the installation, maintenance, and removal of roadside memorials, plaques, and other devices placed within the right-of-way that commemorate the memory of persons killed in vehicle crashes within the right-of-way of any state highway.

B. Any person who installs any plaque, device, sign, object, material, or other memorial within the right-of-way of any highway controlled by the Department except in accordance with criteria established as provided in this section may be assessed a civil penalty of no more than \$100. Each occurrence shall be subject to a separate penalty. All civil penalties collected under this section shall be paid into the Highway Maintenance and Operating Fund.

**Drafting note: This section is moved to this proposed Article 2 on powers and duties of the Board. Technical changes are made.**

§ ~~33.1-209~~ 33.2-XXX. Prohibition of certain weeds and plants on highway rights-of-way.

Neither the ~~Commonwealth Transportation~~ Board nor the Commissioner of Highways shall plant or cause or suffer to be planted on the right-of-way of any state highway any of the weeds or plants known as devil shoestring (~~tephrosia~~ Tephrosia virginiana), Johnson grass (~~sorghum~~ Sorghum halepense), or barberry (~~berberis~~ Berberis vulgaris); if the ~~board of supervisors or other~~ governing body of the county in which the highway is located shall by resolution declare such weeds or plants to be injurious to adjacent property.

The Board shall cause all such weeds or plants ~~heretofore~~ planted or caused to be planted by the Board or Commissioner of Highways on any state highway right-of-way to be dug up and destroyed.

Any owner of land adjacent to any state or other public highway right-of-way, or his agents and employees, may dig up, cut down, or otherwise remove and destroy any of such plants or weeds and any other plants or weeds ~~which that~~ are or may become noxious or otherwise injurious to his property found growing upon any state or other public highway right-of-way adjacent to his land.

**Drafting note: This section is moved to this proposed Article 2 on powers and duties of the Board because it relates to responsibilities of the Board. Technical changes are made.**

~~§ 33.1-12.01~~ 33.2-XXX. Fees for participating in the Integrated Directional Sign Program.

~~In addition to the duties set forth in § 33.1-12 of the Code of Virginia, the Commonwealth Transportation~~ The Board shall establish reasonable fees to be collected by the Commissioner of Highways from any qualified entity for the purpose of participating in the Integrated Directional Sign Program (IDSP) administered by the Department ~~of Transportation~~ or its agents that is designed to provide information to the motoring public relating to gasoline and motor vehicle services, food, lodging, attractions, or other categories as defined by the IDSP. Such fees shall be deposited into a special fund specifically accounted for and used by the Commissioner of Highways solely to defray the actual costs of supervising and administering the signage programs. Included in these costs shall be a reasonable margin, not to exceed ~~ten~~ 10 percent, in the nature of a reserve ~~Fund fund~~.

**Drafting note: Technical changes.**

~~§ 33.1-223.1~~ 33.2-XXX. Statements to be filed with Commonwealth Transportation Board by transit systems.



Any transit system ~~as defined in § 15.2-4502 which that~~ conducts its operations within the exclusive jurisdiction of any ~~county, city or town~~ locality or within the boundaries of any district as defined in § ~~15.2-4502~~ 33.2-XXX, and any ~~jurisdiction contiguous thereto adjoining~~ locality, shall file annually with the ~~Commonwealth Transportation~~ Board such financial and other statistical data as the ~~Commonwealth Transportation~~ Board shall require in order to effectively administer the provisions of § 46.2-206, and shall file with the Department of Rail and Public Transportation, at such times as the Department of Rail and Public Transportation shall require, such information as the Department of Rail and Public Transportation shall require to carry out its duties under ~~subdivision 4 of § 33.1-391.5~~ 33.2-XXX.

The provisions of this section shall not be construed so as to exempt any such transit system from any provision of law or regulation made pursuant to law ~~which that~~ requires the filing of data with any other agency of the Commonwealth.

**Drafting note: This section is moved to this proposed Article 2 on powers and duties of the Board because it relates to responsibilities of the Board. Technical changes are made.**

§ ~~33.1-223.2:17~~ 33.2-XXX. Commonwealth Transportation Board may transfer interest in and control over certain highways, highway rights-of-way, and landings.

Notwithstanding any contrary provision of this title, the ~~Commonwealth Transportation~~ Board, upon receipt of a written request from a public access authority established pursuant to Title 15.2 and without first abandoning or discontinuing such highway, highway right-of-way, or landing, ~~(including a wharf, pier, or dock)~~, may transfer to such requesting authority any and all rights and interests of the Board in ~~such a~~ highway, highway right-of-way, ~~and or~~ landing as the Board may deem in the public interest. Such transfer may be either with or without compensation from the requesting authority.

**Drafting note: This section is moved to this proposed Article 2 on powers and duties of the Board because it relates to authority of the Board. Technical changes are made.**

~~(5) Compliance with federal acts. To § 33.2-XXX. Other powers, duties, and responsibilities of Commonwealth Transportation Board.~~

~~A. The Board shall have the power and duty to~~ comply fully with the provisions of the present or future federal aid acts. The Board may enter into all contracts or agreements with the United States government and may do all other things necessary to carry out fully the cooperation contemplated and provided for by present or future acts of Congress ~~in the area of related to~~ transportation.

~~(8) Contracts with other states. To B. The Board shall have the power and duty to~~ enter into all contracts with other states necessary for the proper coordination of the location, construction, maintenance, improvement, and operation of transportation systems, including the systems of state highways with the highways of such other states, and, where necessary, ~~to seek~~ the approval of such contracts by the Congress of the United States.

~~(9) Use of funds. To C. The Board shall have the power and duty to~~ administer, distribute, and allocate funds in the Transportation Trust Fund as provided by law. The ~~Commonwealth Transportation~~ Board shall ensure that the total funds allocated to any highway construction project are equal to total expenditures within 12 months following completion of the project. However, this requirement shall not apply to debt service apportionments pursuant to ~~§ 33.1-23.3 33.2-XXX or 33.1-23.4 33.2-XXX.~~

~~(10) Financial and investment advisors. With D. The Board shall have the power and duty, with~~ the advice of the Secretary of Finance and the State Treasurer, to engage a financial advisor and investment advisor who may be anyone within or without the government of the Commonwealth, to assist in planning and making decisions concerning the investment of funds and the use of bonds for transportation purposes. The work of these advisors shall be coordinated with the Secretary of Finance and the State Treasurer.

~~(11) The powers of the Virginia Aviation Board set out in Chapter 1 (§ 5.1-1 et seq.) of Title 5.1 and the Virginia Port Authority set out in Chapter 10 (§ 62.1-128 et seq.) of Title 62.1 are in no way diminished by the provisions of this title.~~

699 ~~(12) To~~ E. The Board shall have the power and duty to enter into payment agreements  
700 with the Treasury Board related to payments on bonds issued by the Commonwealth  
701 Transportation Board.

702 ~~(13) Establishment of highway user fees for the systems of state highways.~~ F. When the  
703 traffic-carrying capacity of any ~~system~~ of the systems of state highways or a portion thereof is  
704 increased by construction or improvement, the ~~Commonwealth Transportation~~ Board may enter  
705 into agreements with localities, authorities, and transportation districts to establish highway user  
706 fees for such system of state highways or portion thereof that the localities, authorities, and  
707 transportation districts maintain.

708 **Drafting note: This section combines subdivisions (5), (8), (9), (10), (12), and (13) of**  
709 **existing § 33.1-12. Subdivision (11) is placed in Chapter 1 of proposed Title 33.2, relating**  
710 **to General Provisions.**

711 Article 3.

712 Commissioner of Highways.

713 **Drafting note: Proposed Article 3 delineates the duties and responsibilities of the**  
714 **Commissioner of Highways. Existing sections are reordered for a more logical placement**  
715 **in the Code.**

716 ~~§ 33.1-3 33.2-XXX. Secretary to be Chairman;~~ Commissioner of Highways.

717 ~~The Chairman of the Commonwealth Transportation Board shall be the Secretary of~~  
718 ~~Transportation.~~

719 The Commissioner of Highways, ~~hereinafter in this title sometimes called "the~~  
720 ~~Commissioner,"~~ shall be the chief executive officer of the Department of Transportation. The  
721 Commissioner of Highways may, ~~at the time of his appointment, be a nonresident of Virginia,~~  
722 shall be an experienced administrator; able to direct and guide the Department in the  
723 establishment and achievement of the Commonwealth's long-range highway and other  
724 transportation objectives ~~and shall be appointed at large.~~

The Commissioner of Highways shall devote his entire time and attention to his duties as chief executive officer of the Department and shall receive such compensation as shall be fixed by ~~the Commonwealth Transportation Board, subject to the approval of the Governor~~ law. He shall also be reimbursed for his actual travel expenses while engaged in the discharge of his duties.

In the event of a vacancy due to the death, temporary disability, retirement, resignation, or removal of the Commissioner of Highways, the Governor may appoint and thereafter remove at his pleasure an "Acting Commissioner of Highways" until such time as the vacancy may be filled as provided in § ~~33.1-1~~ 33.2-XXX. Such "Acting Commissioner of Highways" shall have all powers and perform all duties of the Commissioner of Highways as provided by law, and shall receive such compensation as may be fixed by the Governor. In the event of the temporary disability, for any reason, of the Commissioner of Highways, full effect shall be given to the provisions of § 2.2-605.

**Drafting note: The provision designating the Secretary of Transportation as chairman of the Board is already in the section describing the membership of the Commonwealth Transportation Board, that is, existing § 33.1-1 and proposed § 33.2-XXX, so it is not needed in this section. Technical changes are also made.**

§ ~~33.1-13~~ 33.2-XXX. General powers of Commissioner of Highways.

Except such powers as are conferred by law upon the ~~Commonwealth Transportation Board~~, the Commissioner of Highways shall have the power to do all acts necessary or convenient for constructing, improving, maintaining, and preserving the efficient operation of the ~~roads~~ highways embraced in the systems of state highways and to further the interests of the Commonwealth in the areas of public transportation, railways, seaports, and airports. And as executive head of the ~~Transportation~~ Department, the Commissioner of Highways is specifically charged with the duty of executing all orders and decisions of the Board and ~~he~~ may, subject to the provisions of this chapter, require that all appointees and employees perform their duties under this chapter.

In addition, the Commissioner of Highways, in order to maximize efficiency, shall take such steps as may be appropriate to outsource or privatize any of the Department's functions that might reasonably be provided by the private sector.

**Drafting note: Technical changes.**

~~§ 33.1-8~~ § 33.2-XXX. Employees; delegation of responsibilities.

The Commissioner of Highways shall employ such engineers, clerks, assistants, and other employees as may be needed, and shall prescribe and fix their duties, including the delegation of duties and responsibilities conferred or imposed upon the Commissioner of Highways by law. They shall receive all salaries and expenses as may be fixed in accordance with the provisions of law.

**Drafting note: Technical changes.**

~~§ 33.1-190.4~~ § 33.2-XXX. Liaison duties with other organizations.

Tasks and responsibilities concerning transportation program or project delivery shall be carried out as follows:

~~(1)-1.~~ The Commissioner of Highways shall cooperate with the federal government, the American Association of State Highway and Transportation Officials, and any other organization in the numbering, signing, and marking of highways; in the taking of measures for the promotion of highway safety; in research activities; in the preparation of standard specifications; in the testing of highway materials; and otherwise with respect to transportation projects.

~~(2)-2.~~ The Department of Transportation and the Department of Rail and Public Transportation may offer technical assistance and coordinate state resources, as available, to work with local governments, upon their request, in developing sound transportation components for their local comprehensive plans.

**Drafting note: § 33.1-190.4 was added by Chapters 585 and 646 of the Acts of Assembly of 2013 and is placed in this proposed Article 3 with other duties of the Commissioner of Highways. Technical changes are made.**

§ ~~33.1-183.1~~ 33.2-XXX. Authority to lease or convey airspace; ~~terms of lease or conveyance; advertisement and bids; disposition of compensation for lease or conveyance.~~

The Commissioner of Highways may lease or sell and convey the airspace superjacent or subjacent to any highway in ~~this the~~ Commonwealth ~~which that~~ is within his jurisdiction and in which the Commonwealth owns fee simple title after satisfying itself that use of the airspace will not impair the full use and safety of the highway or otherwise interfere with the free flow of traffic thereon and it cannot be reasonably foreseen as needed in the future for highway and other transit uses and purposes. The Commissioner of Highways may provide in such leases and conveyances of airspace for columns of support, in fee or otherwise, ingress, egress and utilities.

No lease or conveyance shall be entered into by the Commissioner of Highways until after the time the ~~county, city or town~~ locality, by action of its governing body by majority recorded vote, approves the projected use and has zoned the airspace in question or has otherwise taken such steps as it deems proper to regulate the type and use of the improvements to be erected in such airspace.

All leases and conveyances shall contain those terms deemed necessary by the Commissioner of Highways to protect the interests of the Commonwealth and the public and shall not be entered into until after public advertising for bids for such airspace. The Commissioner of Highways shall advertise for bids at least 14 days prior to the execution of a lease or a conveyance. The advertisement shall state the place where bidders may examine a map of the airspace, the general terms of the lease or conveyance and the time and place when bids will be opened by the Commissioner of Highways. The highest bid from a responsible bidder, in the sole discretion of the Commissioner of Highways, shall be accepted; however the Commissioner of Highways may reject all bids and advertise the property again.

Compensation paid for such leases and conveyances shall be credited to the ~~fund for highway maintenance and construction~~ Transportation Trust Fund or the Highway Maintenance and Operating Fund.

**Drafting note: Existing § 33.1-183.1 was amended by Chapters 585 and 646 of the Acts of Assembly of 2013; those changes have been incorporated into the existing language in this document. A reference to "the fund for highway maintenance and construction" is changed to "the Transportation Trust Fund or the Highway Maintenance and Operating Fund." Technical changes are also made.**

§ ~~33.1-11~~ 33.2-XXX. Defense of employees.

If any person employed by the Commonwealth Transportation Board, the Department of Transportation, or the ~~Director of the~~ Department of Rail and Public Transportation ~~shall be is~~ arrested or indicted or otherwise prosecuted on any charge arising out of any act committed in the discharge of his official duties, the Commissioner of Highways or the Director of the Department of Rail and Public Transportation may employ special counsel approved by the Attorney General to defend such employee. The compensation for special counsel employed, pursuant to this section, shall, subject to the approval of the Attorney General, be paid by the agency for which the employee works out of the funds appropriated for the administration of the Department of Transportation or the Department of Rail and Public Transportation.

**Drafting note: Existing § 33.1-11 was amended by Chapters 585 and 646 of the Acts of Assembly of 2013; those changes have been incorporated into the existing language in this document. Technical changes are made.**

§ ~~33.1-12.1~~ 33.2-XXX. Agreements between Commissioner of Highways and certain cities and towns.

Notwithstanding the provisions of §§ ~~33.1-12~~ 33.2-XXX and ~~33.1-23.3~~ 33.2-XXX, the Commissioner of Highways, pursuant to a resolution adopted by the ~~Commonwealth Transportation~~ Board and following receipt of a resolution adopted by the governing body of a city or town ~~council~~ to which funds are apportioned pursuant to § ~~33.1-23.3~~ 33.2-XXX, may enter into an agreement with any such city or town pursuant to which the city or town assumes responsibility for the design, right-of-way acquisition, and construction of urban system

highways or portions thereof in such city or town, using funds allocated pursuant to subdivision  
~~B 2 of subsection B~~ of § ~~33.1-23.1~~ 33.2-XXX.

**Drafting note: The reference to "council" has been changed to "governing body" so as to remain consistent with the terminology used throughout this title. Technical changes are also made.**

~~§ 33.1-15. Reserved.~~

**Drafting note: This section is removed because it is carried as reserved in the existing title.**

~~§ 33.1-16~~ 33.2-XXX. Furnishing information regarding right-of-way transactions.

Upon written request to the central office of the Department ~~of Transportation~~, the Commissioner of Highways shall furnish information regarding right-of-way transactions where any public funds are expended. Such information shall not be released prior to ~~sixty~~ 60 days following the transaction to any person not a party directly interested in such transaction.

The information ~~referred to herein~~ furnished under this section shall consist of ~~the following~~ (1) (i) the name of the person to whom any sum was paid for land or interest therein; (2) (ii) the amount of land or interest therein acquired from such person; and ~~(3) (iii) the~~ amount paid such person for land and the amount paid for damage resulting to the remaining property of such person.

**Drafting note: Technical changes.**

~~§ 33.1-17.~~

**Drafting note: Repealed by Chapter 746 of the Acts of Assembly of 1976.**

§ ~~33.1-223.2:2~~ 33.2-XXX. Commissioner of Highways to provide written notice of decision to dispose of real property.

Whenever the ~~Commonwealth Transportation~~ Board or the Department decides to sell or otherwise dispose of any surplus real property, the Commissioner of Highways shall provide written notice of such decision to the mayor or chairman of the governing body of the locality in



which the property or any portion thereof is located. Any failure to provide or receive such notice shall not create a cloud on the title to the property.

**Drafting note: Technical changes.**

§ ~~33.1-12.2~~ 33.2-XXX. Commissioner of Highways to establish community service landscaping program.

The Commissioner of Highways shall establish a program whereby persons convicted of nonviolent misdemeanors who have received a suspended sentence or probation can fulfill their community service requirements by mowing rights-of-way and performing other landscaping maintenance tasks for roads and highways that the Department has the responsibility to maintain.

**Drafting note: Technical changes.**

~~§§ 33.1-13.01., 33.1-13.02.~~

**Drafting note: Repealed by Chapters 36 and 152 of the Acts of Assembly of 2011.**

§ ~~33.1-13.03~~ 33.2-XXX. Annual report by ~~the Virginia Department of Transportation~~ Commissioner of Highways.

The Commissioner of Highways shall annually report in writing to the Governor and General Assembly, no later than November 30 each year, on (i) the condition and performance of the existing transportation infrastructure, using an asset management methodology and generally accepted engineering principles and business practices to identify and prioritize maintenance and operations needs and to identify performance standards to be used to determine those needs, and funding required to meet those needs; (ii) the Department's strategies for improving safety and security, increasing efficiency in agency programs and projects, and collaborating with the private sector and local government in the delivery of services; (iii) the operating and financial activities of the Department, including, ~~but not limited to,~~ the construction and maintenance programs, transportation costs and revenue, and federal allocations; and (iv) other such matters of importance to transportation in the Commonwealth.

**Drafting note: The catchline is amended to reflect the actual content of the section. Here and in other proposed sections, "but not limited to" or similar language is removed when using the term "including" based on § 1-218, which states, "'Includes' means includes, but not limited to." Technical changes are also made.**

§ ~~33.1-13.05~~ 33.2-XXX. Gathering and reporting of information and statistics.

The Commissioner of Highways and the Director of the Department of Rail and Public Transportation shall gather and tabulate information and statistics relating to transportation and disseminate the same throughout the Commonwealth. In addition, the Commissioner of Highways shall provide a report to the Governor, the General Assembly, the ~~Commonwealth Transportation~~ Board, and the public concerning the current status of all highway construction projects in the Commonwealth. This report shall be posted at least four times each fiscal year, but may be updated more often as circumstances allow. The report shall contain, at a minimum, the following information for every project in the Six-Year Improvement Program: (i) project description; (ii) total cost estimate; (iii) funds expended to date; (iv) project timeline and completion date; (v) statement of whether project is ahead of, on, or behind schedule; (vi) the name of the prime contractor; (vii) total expenditures of federal transportation funds in each county and city; (viii) total expenditures of state transportation funds in each county and city; (ix) statewide totals for federal, state, and local funds expended for highways; (x) statewide totals for federal, state, and local funds expended for transit; (xi) total funds expended on intercity passenger and freight rail line and trains; and (xii) total funds expended in each federal and state programmatic category. Use of one or more ~~Internet~~ websites may be used to satisfy this requirement. Project-specific information posted on the Internet shall be updated daily as information is available.

**Drafting note: Section 33.1-13.05 was added by Chapters 585 and 646 of the Acts of Assembly of 2013. Technical changes are made.**

§ ~~33.1-190~~ 33.2-XXX. Construction by state or local employees.

909 A. Irrespective of the provisions of § ~~33.1-185~~ 33.2-XXX, in cases of emergency or on  
910 any project reasonably estimated to cost not more than \$600,000, the Commissioner of  
911 Highways may, ~~at his discretion,~~ build or maintain any of the ~~roads~~ highways in ~~any system the~~  
912 systems of state highways by state employees or local employees as he may designate.

913 B. Notwithstanding the provisions of subsection A, the Commissioner of Highways may  
914 enter into a written agreement with a locality for the building and maintenance of any of the  
915 ~~roads~~ highways in ~~any system the~~ systems of state highways by local employees provided that:  
916 (i) the locality has obtained a cost estimate for the work of not more than \$1 million and (ii) the  
917 locality has issued an invitation for bid and has received fewer than two bids from private  
918 entities to build or maintain such roads.

919 **Drafting note: This section is moved to this proposed Article 3 on powers and**  
920 **duties of the Commissioner of Highways because it relates to his responsibilities. Technical**  
921 **changes are made.**

922 § ~~33.1-185~~ 33.2-XXX. Advertising for bids.

923 All projects reasonably estimated to cost \$300,000 or more that the ~~Commonwealth~~  
924 ~~Transportation~~ Board or the Commissioner of Highways may undertake for construction shall,  
925 ~~when such projects are reasonably estimated to cost \$300,000 or more,~~ be let in accordance with  
926 ~~Chapter 43 the Virginia Public Procurement Act~~ (§ 2.2-4300 et seq.) ~~of Title 2.2~~. When such  
927 projects are reasonably estimated to cost below \$300,000, the Commissioner of Highways may  
928 let them to contract, and if such projects are let to contract, they shall be let only in accordance  
929 with ~~Chapter 43 of Title 2.2 the Virginia Public Procurement Act~~.

930 ~~The word "project" as As~~ used in this section ~~shall mean,~~ "project" means construction  
931 and ~~shall does~~ not include routine maintenance work or the installation of traffic control devices,  
932 unless such work is to be performed under contract.

933 **Drafting note: This section is moved to this proposed Article 3 on powers and**  
934 **duties of the Commissioner of Highways because it relates to his responsibilities. The**

reference to the Virginia Public Procurement Act is changed to reflect current cross-referencing practices for named chapters of the Code. Other technical changes are made.

~~§§ 33.1-186. through 33.1-189.~~

**Drafting note: Repealed by Chapter 647 of the Acts of Assembly of 1982.**

~~§ 33.1-222~~ 33.2-XXX. Maps or plats prepared at request and expense of local governing bodies and other groups; Department of Mines, Minerals and Energy to seek other existing sources.

The Commissioner of Highways ~~is hereby authorized in his discretion to have prepared~~ may prepare photogrammetric maps or plats of specific sites or areas at the request of the governing bodies of ~~counties, cities and towns~~ localities of ~~this~~ the Commonwealth, local nonprofit industrial development agencies, planning district commissions, soil and water conservation districts, metropolitan planning organizations, public service authorities, and local chambers of commerce. The request shall have been first reviewed by the Department of Mines, Minerals and Energy to determine whether suitable or alternate maps or plats are currently available, and the local governing body, agency, or chamber must agree to reimburse the Department of Transportation for the cost of producing the maps or plats.

**Drafting note: This section is moved to this proposed Article 3 on powers and duties of the Commissioner of Highways because it relates to his responsibilities. Technical changes are made, including changing "counties, cities, and towns" to "localities" in keeping with the titlewide definition of "locality" in § 1-221.**

~~§ 33.1-223.2:3~~ 33.2-XXX. Directional signs for certain educational institutions.

For the purpose of this section, "Virginia educational institution" means a for-profit educational institution with its main campus located in the Commonwealth that (i) has, for at least five consecutive years prior to making a request under this section, awarded academic degrees approved by the State Council of Higher Education for Virginia; (ii) offers programs in workforce training or job readiness that contribute to Virginia's economic growth and

development; and (iii) has a combined annual enrollment of at least 1,000 students at its main campus and any branch location situated within a radius of 25 miles from the main campus.

Upon request from the institution, the Commissioner of Highways shall erect and maintain signs at appropriate and conspicuous locations along interstate, primary, or secondary highways, ~~signs~~ providing motorists directions to the main or branch location of any Virginia educational institution. All costs associated with production and erection of signs under this section shall be borne by the affected institution, but all costs associated with maintenance of those signs shall be borne by the ~~Virginia Department of Transportation~~.

~~For the purpose of this section, "Virginia educational institution" means a for-profit educational institution with its main campus located in Virginia that (i) has, for at least five consecutive years prior to making a request under this section, awarded academic degrees approved by the State Council of Higher Education; (ii) offers programs in workforce training or job readiness that contribute to Virginia's economic growth and development; and (iii) has a combined annual enrollment of at least 1,000 students at its main campus and any branch location situated within a radius of twenty-five miles from the main campus.~~ Signs erected by the ~~Virginia Department of Transportation~~ under this section shall be placed in accordance with all applicable Departmental regulations.

**Drafting note: This section is moved to this proposed Article 3 on powers and duties of the Commissioner of Highways because it relates to his responsibilities. Technical changes are made. Technical changes are made, including moving the definition in this section to the beginning for clarity.**

§ ~~33.1-193~~ 33.2-XXX. Closing highways for safety of public or proper completion of construction; injury to barriers, signs, etc.

If it ~~shall appear~~ appears to the Commissioner of Highways necessary for the safety of the traveling public or for proper completion of work ~~which that~~ is being performed to close any ~~road or~~ highway ~~coming~~ under his jurisdiction to all traffic or any class of traffic, the Commissioner of Highways may close, or cause to be closed, the whole or any portion of such

~~road-or~~ highway deemed necessary to be excluded from public travel and may exclude all or any class of traffic from such closed portion. While any such ~~road-or~~ highway, or portion thereof, is so closed, or while any such ~~road-or~~ highway, or portion thereof, is in process of construction or maintenance, the Commissioner of Highways, or contractor, under authority from the Commissioner of Highways, may erect, or cause to be erected, suitable barriers or obstructions thereon, may post, or cause to be posted, conspicuous notices to the effect that the ~~road-or~~ highway, or portion, is closed and may place warning signs, lights, and lanterns on such ~~road-or~~ highway, or portions thereof. When such ~~road-or~~ highway is closed for the safety of the traveling public or in process of construction or maintenance, as provided in this section, any person who willfully breaks down, drives into new construction work, removes, injures, or destroys any such barrier or barriers or obstructions, tears down, removes, or destroys any such notices, or extinguishes, removes, injures, or destroys any such warning lights or lanterns so erected, posted, or placed ~~shall be~~ is guilty of a Class 1 misdemeanor.

**Drafting note: This section is moved to this proposed Article 3 on powers and duties of the Commissioner of Highways because it relates to his responsibilities. This section is one of a great many in which "road" and "highway" are used interchangeably, sometimes in the same sentence. This draft has sought to use "highway" to refer to state-controlled and state-maintained thoroughfares and to use "road" to refer to other thoroughfares. Technical changes are also made.**

~~§ 33.1-194~~ 33.2-XXX. Providing ~~road~~ highway detours.

Whenever necessary, the Commissioner of Highways shall select, lay out, maintain, and keep in as good repair as possible suitable detours, by the most practical route, while the highways ~~or roads~~ are being improved or constructed, and he shall place or cause to be placed explicit directions to the traveling public during repair of any such highway ~~or road~~ under process of construction.

**Drafting note: This section is moved to this proposed Article 3 on powers and duties of the Commissioner of Highways because it relates to his responsibilities.**

**References to "road" are stricken to maintain the practice of using the term "highway." A technical change is also made.**

§ ~~33.1-197~~ 33.2-XXX. Connections over shoulders of highways for intersecting private roads.

The Commissioner of Highways shall permit, ~~at places~~ suitable connections from where private roads leading to and from private homes intersect improved highways, ~~suitable connections from such points of intersection, and~~ over and across the shoulders and unimproved parts of such highways to the paved or otherwise improved parts thereof, ~~so as~~ to provide ~~for~~ the users of such private roads safe and convenient means of ingress and egress with motor vehicles to and from the paved or otherwise improved parts of such highways.

**Drafting note: This section is moved to this proposed Article 3 on powers and duties of the Commissioner of Highways because it relates to his responsibilities. Technical changes are made, including modernization of language.**

§ ~~33.1-198~~ 33.2-XXX. Connections over shoulders of highways for intersecting commercial establishment entrances.

The Commissioner of Highways shall permit, ~~at places~~ suitable connections from where commercial establishment entrances are desired to intersect improved highways, ~~suitable connections from such points of intersection and~~ over and across the shoulders and unimproved parts of such highways to the paved or otherwise improved parts thereof that comply with the ~~Commissioner of Highways'~~ access management standards of the Commissioner of Highways for the location, spacing, and design of entrances, taking into account the operating characteristics and federal functional classification of the highway, ~~so as~~ to provide ~~for~~ the users of such entrances safe and convenient means of ingress and egress with motor vehicles to and from the paved or otherwise improved parts of such highways while minimizing the impact of such ingress and egress on the operation of such highways, provided, ~~however,~~ that any person desiring such an entrance shall:

1. Be required first to obtain a permit therefor from the Commissioner of Highways;

- 1042 2. Provide the entrance at his expense;
- 1043 3. If required by the Commissioner of Highways, provide for the joint use of the desired
- 1044 entrance with adjacent property owners or provide evidence of such efforts; and
- 1045 4. Construct the entrance or have the entrance constructed, including such safety
- 1046 structures as are required by the Commissioner of Highways, pursuant to the Department of
- 1047 Transportation's ~~design standards and "Land Use Permit Manual," the latter of which is filed as~~
- 1048 ~~part of the Virginia Administrative Code applicable regulations, standards, or guidelines~~
- 1049 ~~concerning highway access management standards and land use permits.~~

1050 All commercial entrances whether or not constructed under this section shall be

1051 maintained by the owner of the premises at all times in a manner satisfactory to the

1052 Commissioner of Highways.

1053 Any person violating the provisions of this section ~~shall be~~ is guilty of a misdemeanor;

1054 ~~and, upon conviction, shall be fined~~ punishable as a fine of not less than \$5 nor more than \$100

1055 for each offense. Following a conviction and 15 days for correction, each day during which the

1056 violation continues shall constitute a separate and distinct offense and be punishable as such.

1057 Such person shall be civilly liable to the Commonwealth for actual damage sustained by the

1058 Commonwealth by reason of his wrongful act.

1059 **Drafting note: This section is moved to this proposed Article 3 on powers and**

1060 **duties of the Commissioner of Highways because it relates to his responsibilities. The Land**

1061 **Use Permit Manual was repealed from the Virginia Administrative Code in 2010 and**

1062 **replaced in VAC with a chapter named Land Use Permit Regulations; accordingly, its**

1063 **reference is stricken and replaced with more generic and up-to-date language from the**

1064 **Department of Transportation. Technical changes are also made.**

1065 § ~~33.1-199.33.2-XXX~~. Replacing entrances destroyed ~~by Commissioner in the repair or~~

1066 ~~construction of highways.~~

1067 The Commissioner of Highways shall review the existing access to any parcel of land

1068 having an entrance destroyed in the repair or construction of the systems of state highways and



shall provide access to the systems of state highways in a manner that will serve the parcel of land and ensure efficient and safe highway operation.

**Drafting note: This section is moved to this proposed Article 3 on powers and duties of the Commissioner of Highways because it relates to his responsibilities. The catchline is amended to better reflect the content of the section.**

§ ~~33.1-200~~ 33.2-XXX. Paying for damages sustained to personal property ~~by reason because~~ of work projects, etc.

The Commissioner of Highways ~~is authorized and empowered, in his discretion, to may~~ pay and settle claims and demands against the Commonwealth arising as a result of damages sustained to personal property by reason of work projects or the operation of state-owned or operated equipment when engaged in the construction, reconstruction, or maintenance of the ~~State Highway System~~ primary state highway system, unless said claims or demands arise as a result of negligence of the person or persons asserting such claims or demands. Nothing ~~herein contained in this section~~ shall be construed as imposing any legal liability upon the Commonwealth to pay such claims or demands, nor as giving the consent of the Commonwealth to be sued in any action or suit to recover on such claims or demands in the event the ~~said~~ Commissioner of Highways refuses payment of said claims or demands.

**Drafting note: This section is moved to this proposed Article 3 on powers and duties of the Commissioner of Highways because it relates to his responsibilities. For clarity and in keeping with the convention followed throughout this title, a reference to "the State Highway System" is amended to "the primary state highway system" because both terms refer to the same highway system. Technical changes are also made.**

§ ~~33.1-200.2~~ 33.2-XXX. Removal of snow and ice from public highways by private entities.

Upon request by a person, the Commissioner of Highways may authorize such person to hire private persons, firms, contractors, or entities to remove snow and ice from any public highway in Planning District ~~Eight~~ 8, provided that there will be no costs to the Commonwealth

or its political subdivisions for work pursuant to this section. No private person, firm, contractor, or entity employed to remove snow and ice from any public highway shall be afforded sovereign immunity or immunity in any form whatsoever. Private persons, firms, contractors, or entities so employed shall be liable for civil damages, including, ~~but not limited to,~~ damages for death, injury, or property damage resulting from any act or omission relating to the removal of snow and ice from public highways. Nothing contained in this section shall limit the authority of the Commissioner, of Highways granted under other provisions of law, to authorize or contract for the removal of snow and ice from public highways.

**Drafting note: This section is moved to this proposed Article 3 on powers and duties of the Commissioner of Highways because it relates to his responsibilities. Here and in other proposed sections, "but not limited to" or similar language is removed when using the term "including" based on § 1-218, which states, "'Includes' means includes, but not limited to." Technical changes are also made.**

~~§ 33.1-198.1 33.2-XXX. Comprehensive Commissioner of Highways to develop and implement comprehensive~~ highway access management standards.

A. ~~Comprehensive~~ For purposes of this section, "comprehensive highway access management ~~standards are defined as standards~~" means a coordinated set of state standards and guidelines that allow the Commonwealth and its localities to manage access to the systems of state highways according to their federal functional classification or operational characteristics through the control of and improvements to the location, number, spacing, and design of entrances, median openings, turn lanes, street intersections, traffic signals, and interchanges.

B. The General Assembly declares it to be in the public interest that comprehensive highway access management standards be developed and implemented to enhance the operation and safety of the systems of state highways in order to protect the public health, safety, and general welfare while ensuring that private property is entitled to reasonable access to the systems of state highways. The goals of the comprehensive highway access management standards are:

- 1123 1. To reduce traffic congestion and impacts to the level of service of highways, leading  
1124 to reduced fuel consumption and air pollution;  
1125 2. To enhance public safety by decreasing traffic crash rates;  
1126 3. To support economic development in the Commonwealth by promoting the efficient  
1127 movement of people and goods;  
1128 4. To reduce the need for new highways and road widening by improving the  
1129 performance of the existing systems of state highways; and  
1130 5. To preserve public investment in new highways by maximizing their performance.

1131 C. The Commissioner of Highways shall develop and implement comprehensive  
1132 highway access management standards for managing access to and preserving and improving  
1133 the efficient operation of the ~~state~~ systems of state highways. The comprehensive highway  
1134 access management standards shall include ~~but not be limited to~~ standards and guidelines for the  
1135 location, number, spacing, and design of entrances, median openings, turn lanes, street  
1136 intersections, traffic signals, and interchanges.

1137 Nothing in such standards shall preempt the authority of a local government to regulate  
1138 the type or density of land uses abutting the ~~state system of~~ systems of state highways.

1139 **Drafting note: This section is moved to this proposed Article 3 on powers and**  
1140 **duties of the Commissioner of Highways because it relates to his responsibilities.**  
1141 **References to the "state system of highways" are amended to reflect the definition in § 1-**  
1142 **251, "systems of state highways" meaning all roads within the jurisdiction and control of**  
1143 **the Commonwealth Transportation Board. Technical changes are also made.**

1144 § ~~33.1-217~~ 33.2-XXX. ~~Establishment of recreational~~ Recreational waysides; regulations;  
1145 penalties for violations.

1146 ~~(a)~~ A. To promote the safety, convenience, and enjoyment of travel on, and protection of  
1147 the public investment in, highways of ~~this the~~ Commonwealth, and for the restoration,  
1148 preservation, and enhancement of scenic beauty within and adjoining such highways, it is

hereby declared to be in the public interest to acquire and establish recreational waysides and areas of scenic beauty adjoining the highways of ~~this~~ the Commonwealth.

~~(b)~~ B. The Commissioner of Highways may, whenever in his opinion it is ~~to~~ in the best interest of the Commonwealth, accept from the United States, or any authorized agency thereof, a grant or grants of any recreational waysides established and constructed by the United States, or any such agency thereof, or a grant or grants of funds for landscaping and scenic enhancement of highways, and the Commissioner of Highways may, on behalf of the Commonwealth, enter into a contract or contracts with the United States, or any such agency thereof, to maintain and operate any such recreational waysides ~~which that~~ may be so granted to the Commonwealth and may do all things necessary to receive and expend federal funds for landscaping and scenic enhancement.

~~(c)~~ C. The Commissioner of Highways may, whenever it is ~~to~~ in the best interest of the operation of the ~~interstate~~, Interstate System or the primary or ~~the~~ secondary state highway system ~~of state highways~~, establish, construct, maintain, and operate adjoining the state highway appropriate recreational waysides and areas of scenic beauty adjoining such highways.

~~(d)~~ D. The Commissioner ~~is authorized to~~ of Highways may acquire by purchase, gift, or the power of eminent domain such land or interest in land as may be necessary to carry out the provisions of this section, provided that in exercising the power of eminent domain for areas of scenic beauty, such areas ~~must~~ must adjoin and lie within ~~one hundred~~ 100 feet of the right-of-way of the highway, and the procedure shall be, mutatis mutandis, ~~the same~~ as provided for the acquisition of land by the Commissioner of Highways in ~~Article 7 (§ 33.1-89 et seq.) of this chapter XXX.~~

~~§ 33.1-218. Rules and regulations for use of recreational waysides.~~

E. The ~~Commonwealth Transportation~~ Board ~~is authorized and empowered to~~ may establish ~~rules and~~ regulations for the use of recreational waysides including ~~rules and~~ regulations relating to ~~(a)~~ (i) the time, place, and manner of parking of vehicles, ~~(b);~~ (ii) activities ~~which that~~ may be conducted within such waysides, ~~(e);~~ (iii) solicitation and selling

within the waysides, ~~(d); and (iv)~~ such other matters as may be necessary or expedient in the interest of the motoring public.

The ~~rules and~~ regulations when adopted by the ~~Commonwealth Transportation~~ Board shall be posted in a conspicuous place at each wayside, along with such other signs as the Commissioner of Highways deems necessary to advise the public.

Any person violating any ~~rule and~~ regulation adopted under this section ~~shall be is~~ guilty of a misdemeanor ~~and upon conviction be fined~~ punishable as a fine of not less than \$5 nor more than \$100 for each offense.

~~§ 33.1-219. Such waysides part of interstate, primary or secondary system.~~

F. Such recreational waysides and areas of scenic beauty, when so acquired, established, maintained, and operated shall be deemed to be a part of the ~~interstate, Interstate System or~~ primary or secondary state highway system, but land acquired for areas of scenic beauty shall not be deemed a part of the right-of-way for the purpose of future acquisition of areas of scenic beauty under the provisions of ~~§ 33.1-217~~ subsections A through D.

**Drafting note: This proposed section combines existing §§ 33.1-217, 33.1-218, and 33.1-219, all of which deal in some way with recreational waysides. Technical changes are also made, including use of "regulations" rather than "rules and regulations" per recommendation of the Code Commission.**

~~§ 33.1-220.~~

**Drafting note: Repealed by Chapter 428 of the Acts of Assembly of 2011.**

~~§ 33.1-223.2:1~~ 33.2-XXX. Wetlands mitigation banking.

When authorization is required by federal or state law for any project affecting wetlands and such authorization is conditioned upon compensatory mitigation for adverse impacts to wetlands, the Commissioner of Highways is authorized to expend funds for the purchase of, or is authorized to use, credits from any wetlands mitigation bank, including any owned by the Department, that has been approved and is operating in accordance with applicable federal and state guidance, laws, or regulations for the establishment, use, and operation of mitigation banks

as long as: ~~(1)~~ (i) the bank is in the same fourth order subbasin, as defined by the hydrologic unit boundaries of the National Watershed Boundary Dataset, as the impacted site, or in an adjacent subbasin within the same river watershed; as the impacted site, or it meets all the conditions found in clauses ~~(i)~~ (a) through ~~(iv)~~ (d) and either clause ~~(v)~~ (e) or ~~(vi)~~ of this section (f); ~~(2)~~ (ii) the bank is ecologically preferable to practicable on-site and off-site individual mitigation options, as defined by federal wetland regulations; and ~~(3)~~ (iii) the banking instrument, if approved after July 1, 1996, has been approved by a process that included public review and comment. When the bank is not located in the same subbasin or adjacent subbasin within the same river watershed as the impacted site, the purchase or use of credits shall not be allowed unless the Commissioner of Highways demonstrates to the satisfaction of the agency requiring compensatory mitigation that ~~(i)~~ (a) the impacts will occur as a result of a ~~Virginia~~ Department of Transportation linear project; ~~(ii)~~ (b) there is no practical same river watershed mitigation alternative; ~~(iii)~~ (c) the impacts are less than one acre in a single and complete project within a subbasin; ~~(iv)~~ (d) there is no significant harm to water quality or fish and wildlife resources within the river watershed of the impacted site; and either ~~(v)~~ (e) impacts within the Chesapeake Bay watershed are mitigated within the Chesapeake Bay watershed as close as possible to the impacted site or ~~(vi)~~ (f) impacts within subbasins 02080108, 02080208, and 03010205, as defined by the National Watershed Boundary Dataset, are mitigated in-kind within those subbasins, as close as possible to the impacted site. After July 1, 2002, the provisions of clause ~~(vi)~~ (f) shall apply only to impacts within subdivisions of the listed subbasins where overlapping watersheds exist, as determined by the Department of Environmental Quality, provided the Department of Environmental Quality has made such a determination by that date.

For the purposes of this section, "river watershed" means the Potomac River Basin, Shenandoah River Basin, James River Basin, Rappahannock River Basin, Roanoke and Yadkin Rivers Basin, Chowan River Basin (including the Dismal Swamp and Albemarle Sound), Tennessee River Basin, Big Sandy River Basin, Chesapeake Bay and its Small Coastal Basins, Atlantic Ocean, York River Basin, and the New River Basin.

**Drafting note: This section is moved to this proposed Article 3 on powers and duties of the Commissioner of Highways because it relates to his responsibilities. For clarity, the reference to "the Department" is amended to "the Department of Environmental Quality," since two Departments are discussed in this section. Technical changes are also made.**

§ ~~33.1-248~~ 33.2-XXX. Expenditure of funds ~~upon~~ for interstate bridges and approaches.

The Commissioner of Highways may expend from funds now or hereafter available for construction or maintenance of roads, either alone or in cooperation with public road authorities of other states, such funds as he may deem necessary for the construction, maintenance, operation, and repair of interstate highway bridges, tunnels, and approaches forming connecting links between roads now or hereafter in the systems of state highways and public roads of other states.

**Drafting note: This section is moved to this proposed Article 3 on powers and duties of the Commissioner of Highways because it relates to his responsibilities. Technical changes are made.**

§ ~~33.1-249~~ 33.2-XXX. Maintenance and operation of city and state line bridges.

The governing bodies of cities and towns having ~~more populations greater~~ than 3,500 ~~population~~ and the Commissioner of Highways may enter into agreements, upon such terms and conditions as may be necessary, for the maintenance of public highway bridges or tunnels lying partly within and partly ~~without~~ outside the incorporated limits of such cities and towns.

The Commissioner of Highways may enter into agreements, with other states and the District of Columbia, upon such terms and conditions as may be necessary, for the maintenance and operation, including the issuance of permits, of public highway bridges or tunnels lying partly within and partly ~~without~~ outside the territorial limits of ~~this the~~ Commonwealth.

**Drafting note: This section is moved to this proposed Article 3 on powers and duties of the Commissioner of Highways because it relates to his responsibilities. Technical changes are made.**

1257        ~~§ 33.1-250.~~

1258        **Drafting note: Repealed by Chapter 65 of the Acts of Assembly of 2009.**

1259        ~~§ 33.1-201~~ 33.2-XXX. Improving certain private roads and certain town streets and  
1260 roads.

1261        A. The Commissioner of Highways may, ~~in his discretion,~~ upon the request of the ~~board~~  
1262 ~~of supervisors or other~~ governing body of any county and at the expense of the owner of the  
1263 land, improve private roads giving direct access from the home or other central buildings on the  
1264 property along the shortest practical route to the nearest public highway; ~~provided, however,~~  
1265 that:

1266        ~~(1)-1.~~ The Commissioner of Highways shall in no case undertake any such work until  
1267 certification is made by the ~~board of supervisors or other~~ governing body of the county that the  
1268 property owner cannot secure the services of a private contractor to perform the work nor then  
1269 until the owner has deposited with him a certified check in the amount estimated by the  
1270 Commissioner of Highways as the cost of the work;

1271        ~~(2)-2.~~ Not more than \$1,000 shall be expended on any one such private project in any  
1272 one year; and

1273        ~~(3)-3.~~ No work of ordinary maintenance shall be done on any such private road under the  
1274 provisions of this section.

1275        ~~And B. In addition,~~ the Commissioner of Highways may, upon the request of the council  
1276 of any town having a population of less than 1,500 and at the expense of such town, improve  
1277 and maintain any streets or roads therein not in the ~~State Highway System~~ primary state  
1278 highway system. As to streets and roads in such town, no certification by the board of  
1279 supervisors or deposit shall be necessary.

1280        C. Any work done by the Commissioner of Highways pursuant to the provisions of this  
1281 section shall only be done with the equipment and employees of the ~~Commonwealth~~  
1282 ~~Transportation~~ Board.



**Drafting note: This section is moved to this proposed Article 3 on powers and duties of the Commissioner of Highways because it relates to his responsibilities. For clarity, references to "the State Highway System" are amended to "the primary state highway system." Technical changes are also made.**

§ ~~33.1-210.2~~ 33.2-XXX. Installation and maintenance of ~~certain~~ "children at play" signs in counties and towns.

The governing body of any county or town may enter into an agreement with the Commissioner of Highways allowing the county or town to install and maintain, at locations specified in such agreement, signs alerting motorists that children may be at play nearby. The cost of the signs and their installation shall be paid by the county or town.

The provisions of this section shall not apply to any county that has withdrawn its roads from the secondary state highway system ~~of state highways~~ under the provisions of § 11 of Chapter 415 of the Acts of Assembly of 1932 and has not elected to return.

**Drafting note: This section is moved to this proposed Article 3 on powers and duties of the Commissioner of Highways because it relates to his responsibilities. Technical changes are made.**

§ ~~33.1-211~~ 33.2-XXX. Tramways and railways along or across public highways; appeals.

A. Whenever any person, firm, or chartered company engaged in mining, manufacturing, or lumber getting has acquired the right-of-way for a tramway or railway, except across or upon a public highway, and desires to cross such highway; or some part thereof; and if such person, firm, or chartered company cannot agree with the Commissioner of Highways, or ~~board of supervisors or other~~ governing body of a county if the road ~~be is~~ is a county road in a county where the roads ~~of which~~ are not within the secondary state highway system ~~of state highways~~, as to the terms and conditions of such crossing, the circuit court of the county in which such highway may be; may prescribe such regulations for the crossing of such highway as will protect the public, and when such regulations have been prescribed, such tramway or railway

may be constructed and maintained or, if already constructed, may be maintained in accordance with such regulations as may be made on the application of the owner of such tramway or railway or on the motion of the attorney for the Commonwealth after notice to such owner.

~~§ 33.1-212. Appeals.~~

B. The Commissioner of Highways or ~~board of supervisors or other~~ governing body or the applicant or owner of the tramway or railway may appeal from the order of the circuit court in the manner prescribed for appeals in controversies concerning roads.

~~§ 33.1-213. Private property not to be condemned for such tramways, etc.~~

C. Nothing contained in ~~§ 33.1-214~~ this section shall be construed as giving the right to condemn private property for such tramway or railway, nor shall the rights of any tramway or railway heretofore lawfully acquired be affected.

**Drafting note: The provisions of existing §§ 33.1-211, 33.1-212, and 33.1-213, all dealing with construction of tramways or railways along or across public highways, are consolidated in this single section. Technical changes are also made.**

~~§ 33.1-223.2:8~~ 33.2-XXX. Highway safety corridor program.

The Commissioner of Highways shall establish a highway safety corridor program, under which a portion of ~~Virginia~~ primary state highway system ~~highways~~ and ~~interstate system~~ highways Interstate System may be designated by the Commissioner of Highways as highway safety corridors, to address highway safety problems through law enforcement, education, and safety enhancements. In consultation with the Department of Motor Vehicles and the Superintendent of State Police, the Commissioner of Highways shall establish criteria for the designation and evaluation of highway safety corridors, ~~to include~~ including a review of crash data, accident reports, type and volume of vehicle traffic, and engineering and traffic studies. The Commissioner of Highways shall hold a public hearing prior to the adoption of the criteria to be used for designating a highway safety corridor. The Commissioner of Highways shall hold a minimum of one public hearing before designating any specific highway corridor as a

highway safety corridor. The public hearing or hearings for a specific corridor shall be held at least 30 days prior to the designation at a location as close to the proposed corridor as practical.

The Department of Transportation shall erect signs that designate highway safety corridors and the penalties for violations committed within the designated corridors.

**Drafting note: This section is moved to this proposed Article 3 on powers and duties of the Commissioner of Highways because it relates to his responsibilities. References to highways and highway systems are amended to maintain consistency throughout proposed Title 33.2. Technical changes are also made.**

§ ~~33.1-206~~ 33.2-XXX. Erection and maintenance of newspaper route boxes.

The publishers of all newspapers having a circulation in rural sections of the Commonwealth may erect and maintain suitable newspaper route boxes along and on the rights-of-way of the public ~~roads and~~ highways throughout such rural sections, in which to deposit ~~such papers~~ newspapers for their subscribers. The short name of the newspaper to be deposited in each such box, but nothing more, may be plainly printed thereon. All such boxes shall be ~~so~~ located ~~as so they do~~ not ~~to~~ interfere with or endanger public travel on ~~such roads and~~ highways. All such locations shall meet with the approval of the Commissioner of Highways.

**Drafting note: This section is moved to this proposed Article 3 on powers and duties of the Commissioner of Highways because it relates to his responsibilities. Technical changes are made.**

#### Article 4.

#### Department of Transportation.

**Drafting note: Proposed Article 4 of Chapter 2 is composed of sections relating to the powers, duties, and obligations of the Department of Transportation. Existing sections are reordered for a more logical placement in the Code.**

§ ~~33.1-13.03:1~~ 33.2-XXX. Responsibilities of the Department of Transportation for analysis of transportation projects in the Northern Virginia Transportation District.

1362           A. The Department of Transportation, in ongoing coordination with the Commonwealth  
1363 Transportation Board, the Department of Rail and Public Transportation, and the Northern  
1364 Virginia Transportation Authority, shall evaluate all significant transportation projects,  
1365 including highway, mass transit, and technology projects, in and near the Northern Virginia  
1366 Transportation District, to the extent that funds are available for such purpose. The evaluation  
1367 shall provide an objective, quantitative rating for each project according to the degree to which  
1368 the project is expected to reduce congestion and, to the extent feasible, the degree to which the  
1369 project is expected to improve regional mobility in the event of a homeland security emergency.  
1370 Such evaluation shall rely on analytical techniques and transportation modeling, including those  
1371 that employ computer simulations currently and customarily employed in transportation  
1372 planning. The Department of Transportation may rely on the results of transportation modeling  
1373 performed by other entities, including the Northern Virginia Transportation Authority and  
1374 private entities contracted for this purpose, provided that such modeling is in accordance with  
1375 this section. The Department of Transportation shall publicize the quantitative ratings  
1376 determined for each project on its website and complete the evaluation at least once every four  
1377 years, with interim progress reports provided on the website at least once every six months  
1378 starting January 1, 2013.

1379           B. In determining the allocation of highway construction funding in the Northern  
1380 Virginia Transportation District, the ~~Commonwealth Transportation~~ Board shall, in ongoing  
1381 coordination with the Northern Virginia Transportation Authority, give priority to projects that  
1382 most effectively reduce congestion in the most congested corridors and intersections. However,  
1383 nothing in this section shall limit the ability of the ~~Commonwealth Transportation~~ Board to  
1384 consider other criteria, including the performance-based criteria set forth in § ~~15.2-4838~~ 33.2-  
1385 XXX.

1386           C. Nothing in this section shall be construed or implied to direct funding to the Northern  
1387 Virginia Transportation District from another transportation district.

D. For purposes of this section, the significant transportation projects to be evaluated shall comprise at least 25 such projects selected according to priorities determined by the ~~Commonwealth Transportation~~ Board, in ongoing coordination with the Northern Virginia Transportation Authority, without regard to the funding source of the project, and may include ~~but not be limited to:~~

1. Projects included in the version of the Financially Constrained Long-Range Transportation Plan of the National Capital Region Transportation Planning Board in effect when the evaluation is made, plus additional projects in the Northern Virginia Transportation Authority's TransAction 2030 Regional Transportation Plan and subsequent updates; and

2. Other highway, rail, bus, and technology projects that could make a significant impact on mobility in the region, ~~to include~~ including additional Potomac River crossings west and south of Washington, D.C.; extension of the Metro Orange Line, Metro Yellow Line, and Metro Blue Line; bus rapid transit on Interstate ~~Route~~ 66; vehicle capacity and mass transit improvements on the U.S. Route 1 corridor; and implementation of relevant portions of the Statewide Transportation Plan established pursuant to § ~~33.1-23.03~~ 33.2-XXX.

**Drafting note: Existing § 33.1-13.03:1 was amended by Chapters 786 and 825 of the Acts of Assembly of 2013; those changes have been incorporated into the existing language in this document. In subsection D, "but not be limited to" is removed based on § 1-218, which states, "'Includes' means includes, but not limited to." Technical changes are also made.**

§ ~~33.1-19.1~~ 33.2-XXX. Environmental permits for highway projects; timely review.

Notwithstanding any other provision of state law or regulation, any state agency, board, or commission that issues a permit required for a highway construction project pursuant to Title 10.1, 28.2, 29.1, or 62.1 ~~of the Code of Virginia~~ shall, within 15 days of receipt of an individual permit application, review the application for completeness and either accept the application or request additional specific information from the Department ~~of Transportation~~. Unless a shorter period is provided by law, regulation, or agreement, the state agency, board, or commission

1415 shall within 120 days of receipt of a complete application issue the permit, issue the permit with  
1416 conditions, deny the permit, or decide whether a public meeting or hearing is required by law. If  
1417 a public meeting or hearing is held, it shall be held within 45 days of the decision to conduct  
1418 such a proceeding, and a final decision as to the permit shall be made within 90 days of  
1419 completion of the public meeting or hearing. For coverage under general permits issued  
1420 pursuant to Title 10.1, 28.2, 29.1, or 62.1, the state agency, board, or commission that issues  
1421 such permits shall, within 10 business days of receipt of an application from the Department-of  
1422 ~~Transportation~~ for-a-road or highway construction project, review the application for  
1423 completeness and either accept the application or request additional specific information from  
1424 the Department-of-~~Transportation~~. Coverage under the general permit shall be approved,  
1425 approved with conditions, or denied within 30 business days of receipt of a complete  
1426 application.

1427 **Drafting note: Technical changes.**

1428 ~~§ 33.1-20.~~

1429 **Drafting note: Repealed by Chapter 607 of the Acts of Assembly of 1979.**

1430 ~~§ 33.1-21.~~

1431 **Drafting note: Repealed by Chapters 104 and 164 of the Acts of Assembly of 2011.**

1432 ~~§ 33.1-223.2:4~~ 33.2-XXX. Department of Transportation to maintain drainage  
1433 easements.

1434 Whenever, in connection with or as a precondition to the construction or reconstruction  
1435 of any highway, the Department shall have acquired any permanent drainage easement, the  
1436 Department shall, until such time as such easement shall have been terminated, perform repairs  
1437 required to protect the roadway and to ensure the proper function of the easement within the  
1438 right-of-way and within the boundaries of such easement.

1439 **Drafting note: This section is moved to this proposed Article 4 on the Department**  
1440 **because it relates to its duties and responsibilities. Technical changes are made.**

1441 ~~§ 33.1-189.1~~ 33.2-XXX. Specifications in purchasing lubricating motor oil.

A. Standard specifications adopted for lubricating motor oil for competitive bidding contracts to be let by the Department ~~of Transportation~~ shall be prescribed so as to include re-refined or recycled lubricating motor oil. Specifications adopted for circumstances or equipment ~~which that~~ require specialized treatment or products may be excluded.

B. The Department shall compile and publish a list of business entities ~~which that~~ commercially distribute re-refined or recycled lubricating motor oil ~~which that~~ complies with the standard specifications adopted by the Department pursuant to the provisions of this section. The Department shall make the list available to local governing bodies upon request.

**Drafting note: This section is moved to this proposed Article 4 on the Department because it relates to its duties and responsibilities. Technical changes are made.**

§ ~~33.1-190.1~~ 33.2-XXX. Value engineering required in certain projects.

The Department shall employ value engineering in conjunction with any project on any highway system using criteria established by the Department ~~and~~, including ~~but not limited to~~ all projects costing more than \$5 million. For the purposes of this section, "value engineering" ~~shall mean~~ means a systematic process of review and analysis of an engineering project by a team of persons not originally involved in the project. Such team may offer suggestions ~~which that~~ would improve project quality and reduce total project cost, ranging from combination or elimination of inefficient or expensive parts or steps in the original proposal to total redesign of the project using different technologies, materials, or methods.

After a review, the Commissioner of Highways may waive the requirements of this section for any project for compelling reasons. Any such waiver shall be in writing, state the reasons for the waiver, and apply only to a single project.

**Drafting note: This section is moved to this proposed Article 4 on the Department because it relates to its duties and responsibilities. Here and in other proposed sections, "but not limited to" or similar language is removed when using the term "including" based on § 1-218, which states, "'Includes' means includes, but not limited to." Technical changes are also made.**

§ ~~33.1-200.1~~ 33.2-XXX. Removal of snow from driveways of volunteer fire departments and rescue squads.

~~The On the roads under the jurisdiction of the Department, the Department of Transportation shall remove snow from the driveways and entrances on the roads under the jurisdiction of the Department of Transportation of volunteer fire departments and volunteer rescue squads when the chief of any individual volunteer fire department, or the head of any individual volunteer rescue squad, makes a written request for such snow removal service; provided that such service shall only be performed when such service can be performed during the normal course of snow removal activities of the Department of Transportation without interfering with, or otherwise inconveniencing, such snow removal activities; provided further, that such.~~ Such service shall not extend to any parking lots adjacent to such driveways and entranceways not normally used by the volunteer fire department or volunteer rescue squad vehicles as their direct driveway or entrance.

**Drafting note: This section is moved to this proposed Article 4 on the Department because it relates to its duties and responsibilities. Technical changes are made.**

§ ~~33.1-223.2-18~~ 33.2-XXX. School bus ~~stops~~ stop signs or other indicators.

The Department shall allow any local school board to install signs or other devices to indicate school bus stops. ~~Installation of school bus stop signs or other devices on any state-maintained highway shall be,~~ provided the installation is approved by the Department prior to installation. ~~This is not a requirement~~ No local school board shall be required to install signs at all school bus stops. Maintenance, repair, and replacement of school bus stop signs shall be the responsibility of the local school board. The Department, in conformance with the Department's current policies for emergency snow removal operations, shall use its best efforts to ensure that signed school bus stop areas shall not be obstructed by snow removal operations. Installation of school bus stop signs shall not designate the area as school property.

**Drafting note: This section is moved to this proposed Article 4 on the Department because it relates to its duties and responsibilities. Technical changes are made.**



§ ~~33.1 210~~ 33.2-XXX. Livestock on right-of-way of ~~any system~~ the systems of state highways.

No person, firm, or corporation shall pasture or graze, or cause to be pastured or grazed, or otherwise permit to be on any right-of-way of any ~~road~~ highway in ~~any system~~ the systems of state highways, except as ~~herein~~ otherwise provided in this section, any livestock, unless such animal or animals be securely tied or held by chain or rope so as to prevent such animal from getting on the traveled portion of the highway; provided, ~~however~~, that this section shall not apply when such livestock are being driven along such ~~road or right-of-way~~ highway while under the control of a responsible drover or drovers.

~~However, nothing~~ Nothing in this section shall prevent the owners of abutting parcels of land from grazing livestock unsecured by chain or rope on secondary roads ~~which that~~ (i) have been taken into the system as gated roads and (ii) carry fewer than ~~fifty~~ 50 vehicles per day.

On gated roads carrying ~~fifty~~ 50 or more vehicles per day, the Department ~~of Transportation~~ shall, upon the request of the local governing body and upon the recordation of a deed of gift or donation by such landowner of not less than ~~forty-foot~~ a 40-foot right-of-way, reimburse abutting landowners a sum equal to ~~one-dollar~~ \$1 per foot of fencing ~~which that~~ must be installed to keep cattle from entering the right-of-way from such abutting land. Where such fencing separates pasture land from a water source used by the owner of such pasture land to water his livestock, the Department ~~of Transportation~~ shall construct or have constructed a means of access by which stock may reach the water source from the pasture land. Moneys for such fencing and construction of access to water shall be taken from highway construction funds. For purposes of this section, a "gated" road is a road on which, prior to July 1, 1986, abutting landowners have maintained a gate or cattle guard.

Any person, firm, or corporation who ~~shall violate~~ violates any of the provisions of this article shall be fined not less than ~~ten-dollars~~ \$10 nor more than ~~fifty-dollars~~ \$50 for such offense.

1522           Nothing herein shall be construed to transfer the liability for injuries or property damage  
1523 caused by such grazing livestock.

1524           **Drafting note: This section is moved to this proposed Article 4 on the Department**  
1525 **because it relates to its duties and responsibilities. Technical changes are made.**

1526           ~~§ 33.1-210.1.~~

1527           **Drafting note: Repealed by Chapter 251 of the Acts of Assembly of 1991.**

1528           ~~§ 33.1-223.2-9~~ 33.2-XXX. Comprehensive roadside management program.

1529           The Department shall promulgate regulations for a comprehensive roadside management  
1530 program. Such program shall include, ~~but not be limited to,~~ opportunities for participation by  
1531 individuals, communities, and local governments and shall address items ~~to include,~~ including  
1532 safety, landscape materials, services, funding, recognition, and appropriate signing.

1533           **Drafting note: This section is moved to this proposed Article 4 on the Department**  
1534 **because it relates to its duties and responsibilities. Technical changes are made, including**  
1535 **removing the phrase "but not be limited to" based on § 1-218, which states, "'Includes'**  
1536 **means includes, but not limited to."**

1537           ~~§ 33.1-223.2~~ 33.2-XXX. Intermittent closing of ~~roads~~ highways subject to flooding;  
1538 costs; application for permit; notice; issuance of permit.

1539           A. Upon application of the board of directors of any soil and water conservation district  
1540 and of the board of supervisors of the county wherein the ~~road~~ highway is located, the  
1541 Department ~~of Transportation~~ is ~~hereby~~ authorized to permit the intermittent closing of any ~~road~~  
1542 highway located within the boundaries of such district and county whenever in its judgment it is  
1543 necessary to do so and when the ~~road~~ highway will be intermittently subject to inundation by  
1544 floodwaters retained by an approved watershed retention structure. All costs associated with  
1545 such closing shall be borne by the board of supervisors of the county, including the costs of  
1546 furnishing, erecting, and removing the necessary signs, barricades, signals, and lights to  
1547 safeguard and direct traffic.

B. Before any permit may be issued for the temporary inundation and closing of such a ~~road~~ highway, an application for such permit shall be made to the Department ~~of Transportation~~ by the board of directors of the soil and water conservation district and the board of supervisors of the county wherein the ~~road~~ highway is located. The application shall specify the ~~road~~ highway involved and shall request that a permit be granted to the county to allow the intermittent closing of the ~~road~~ highway.

C. Before making such application, the board of supervisors of the county wherein such ~~road~~ highway is located shall give notice of the proposed action by publication once each week for two consecutive weeks in a newspaper of general circulation in the county, and such notice shall contain a description of the places of beginning and the places of ending of such intermittent closing. In addition to such publication, the board of supervisors of such county shall give notice to all public utilities having facilities located within the rights-of-way of any ~~road~~ highway being closed by mailing a copy of such notice to the office of each such public utility located within the county, or if no office is located within the county, then to the office of such utility located nearest to the county. Furthermore, no such application shall be accepted by the Department ~~of Transportation which that~~ does not certify compliance by the applicants with the ~~aforsaid~~ requirements of publication and notice in the manner prescribed ~~herein in this~~ section. All costs associated with the application procedure and notice to the public and to public utilities shall be borne by the board of supervisors of the county.

D. Not sooner than ~~thirty~~ 30 days after the last publication and not sooner than ~~thirty~~ 30 days after the mailing of such notice, the Department ~~of Transportation~~ may issue the permit with respect to such ~~road~~ highway. Nothing herein contained shall require the Department to issue such a permit when the Department, in its sole discretion, does not consider such intermittent closing of ~~roads~~ highways to be in the best interest of fulfilling the Department's duties to the traveling public.

**Drafting note: This section is moved to this proposed Article 4 on the Department because it relates to its duties and responsibilities. References to "road" and "roads" are amended to "highway" and "highways." Technical changes are also made.**

§ ~~33.1-223.2:7~~ 33.2-XXX. Family restrooms.

The Department ~~of Transportation~~ shall provide family restrooms at all rest areas along ~~interstate~~ Interstate System highways in the Commonwealth. All such family restrooms shall be constructed in accordance with federal law. The provisions of this section shall apply only to rest stops constructed on or after July 1, 2003.

**Drafting note: This section is moved to this proposed Article 4 on the Department because it relates to its duties and responsibilities. The reference to "interstate highways" is amended to "Interstate System highways" to maintain consistency throughout proposed Title 33.2. A technical change is also made.**

§ ~~33.1-223.2:22~~ 33.2-XXX. Contractor performance bonds for locally administered transportation improvement projects.

Whenever any ~~county, city, or town~~ locality undertakes administration of a transportation improvement project and obtains, in connection therewith, contractor performance bonds that include the ~~Virginia~~ Department ~~of Transportation~~ as a dual obligee, the amount of such bonds shall be no greater than would have been required had the Department not been included as a dual obligee. The surety's obligation to the Department shall be no greater than its obligation to the ~~county, city, or town~~ locality administering the project, and the amount of the bond is the limit of the surety's obligation to either or both obligees.

**Drafting note: This section is moved to this proposed Article 4 on the Department because it relates to its duties and responsibilities. Technical changes are made.**

§ ~~33.1-223.2:16~~ 33.2-XXX. Localities may use design-build contracts.

~~Counties, cities, and towns~~ Localities may award contracts for the construction of transportation projects on a design-build basis. These contracts may be awarded after a written determination is made by the chief executive officer of the ~~county, city, or town~~ locality that

delivery of the projects must be expedited and that it is not in the public interest to comply with the design and construction contracting procedures normally followed. These contracts shall be of such size and scope to encourage maximum competition and participation by qualified contractors. Such determination shall be retained for public inspection in the official records of the ~~county, city, or town~~ locality and shall include a description of the nature and scope of the project and the reasons for the determination that awarding a design-build contract will best serve the public interest. If state or federal transportation funds are used for the contract, then the ~~county, city, or town~~ locality shall comply with the provisions of § ~~33.1-12, 33.2-XXX~~ and shall request from the Department the authority to administer the project in accordance with pertinent state or federal requirements.

**Drafting note: This section is moved to this proposed Article 4 on the Department because it relates to its duties and responsibilities. Technical changes are made.**

§ ~~33.1-223.2:27 33.2-XXX~~. Department of Transportation to provide for training of certain local employees.

The Department ~~of Transportation~~ shall provide for the training and certification of local governments in order that such local governments are capable of administering local maintenance and construction projects that involve the secondary or urban highway system. Such training and certification shall enable such local governments to carry out locally administered projects in compliance with federal and state law and regulations with minimal oversight by Department personnel.

**Drafting note: This section is moved to this proposed Article 4 on the Department because it relates to its duties and responsibilities. Technical changes are made.**

§ ~~33.1-223.2:10 33.2-XXX~~. Department of Transportation to maintain property acquired for construction of transportation projects.

Subject to requirements of federal law or regulations and prior to the initiation of project construction, the Department shall mow the grass and remove weeds and debris on property acquired for the construction of a transportation project by the Department. Such activities shall

be performed in accordance with the same schedules used for these activities on other ~~right-of-~~  
~~way rights-of-way~~ maintained by the Department in the same locality. At the written request of  
the local governing body or a locality, the Department shall provide additional services on the  
property acquired for the construction of a transportation project, including removal of  
abandoned vehicles. Such additional services shall be funded from the construction allocations  
to the project.

**Drafting note: This section is moved to this proposed Article 4 on the Department  
because it relates to its duties and responsibilities. Technical changes are made.**

§ ~~33.1-223.2-14~~ 33.2-XXX. Location of landfill gas pipelines in highway right-of-way;  
Department of Transportation to provide notice to counties.

Whenever the Department grants its permission for the construction, installation,  
location, or placement of a landfill gas pipeline within any highway right-of-way, notice ~~thereof~~  
shall be provided by the Department to every county through which such pipeline or any portion  
thereof will pass.

For the purposes of this section, "landfill gas pipeline" means those facilities exempted  
from the definition of public utility in subdivisions (b) (6), ~~(b)~~ (7), and ~~(b)~~ (8) of § 56-265.1.

**Drafting note: This section is moved to this proposed Article 4 on the Department  
because it relates to its duties and responsibilities. Technical changes are made.**

§ ~~33.1-223.2-14~~ 33.2-XXX. Use of steel plates in connection with highway repairs.

Any person using steel plates in connection with a temporary or permanent repair to the  
roadway of any highway shall follow the standards of the ~~Virginia~~ Department ~~of~~  
~~Transportation~~ regarding warnings thereof and the marking of such plates. The provisions of  
this section shall not apply to any portion of a roadway that is closed to vehicular traffic.

**Drafting note: This section is moved to this proposed Article 4 on the Department  
because it relates to its duties and responsibilities. Technical changes are made.**

§ ~~33.1-223.2-19~~ 33.2-XXX. Application and installation of traffic control measures.

Nothing in this title shall be construed to prevent the application and installation of traffic control measures to reduce the negative effects of traffic through residential areas on any component of the secondary highway system that meets the definition of "residence district" ~~contained~~ in § 46.2-100, even if such component also provides access to a "business district" as defined in the same section. Installation of traffic control measures on any state-maintained highway shall be approved by the Department prior to installation.

~~§ 33.1-223.2:20. Application and installation of traffic control measures.~~

~~Nothing Furthermore, nothing~~ in this title shall be construed to prevent the acceptance by the Department ~~of Transportation~~ of private financing for the application and installation of traffic control measures if and when such measures meet the Department's standards.

**Drafting note: This proposed section combines two very similar sections, both related to traffic control measures. Technical changes are also made.**

~~§ 33.1-223.2:29~~ 33.2-XXX. Periodic quantitative rating of certain highways.

The Department ~~of Transportation~~ shall determine a quantitative rating on the pavement condition and ride quality of every highway in the primary and secondary state highway systems at least once every five years, using metrics generally accepted in the United States for this purpose. The Department shall post these ratings on its website, organized by transportation district, updated at least quarterly, with interpretive guidance, identifying each (i) primary and secondary highway or segment thereof that has been rated, the pavement condition and ride quality rating given, and the date it was last rated and (ii) primary or secondary highway or segment thereof that has not been rated and the approximate date, if available, that the rating is scheduled to be made.

**Drafting note: Section 33.1-223.2:29 was added by Chapter 290 of the Acts of Assembly of 2013 and placed in this proposed Article 4 on the Department because it relates to its duties and responsibilities. Technical changes are made.**

~~§ 33.1-223.2:21~~ 33.2-XXX. Noise abatement practices and technologies.

1679 | A. Whenever the ~~Commonwealth Transportation~~ Board or the Department plan for or  
1680 | undertake any highway construction or improvement project and such project includes or may  
1681 | include the requirement for the mitigation of traffic noise impacts, first consideration should be  
1682 | given to the use of noise reducing design and low noise pavement materials and techniques in  
1683 | lieu of construction of noise walls or sound barriers. Vegetative screening, such as the planting  
1684 | of appropriate conifers, in such a design would be utilized to act as a visual screen if visual  
1685 | screening is required.

1686 | B. The Department shall expedite the development of quiet pavement technology such  
1687 | that applicable contract solicitations for paving shall include specifications for quiet pavement  
1688 | technology and other sound mitigation alternatives in any case in which sound mitigation is a  
1689 | consideration. To that end, the Department shall construct demonstration projects sufficient in  
1690 | number and scope to assess applicable technologies. The assessment shall include evaluation of  
1691 | the functionality and public safety of these technologies in Virginia's climate and shall be  
1692 | evaluated over at least two full winters. The Department shall provide an initial interim report to  
1693 | the Governor and the General Assembly by June 30, 2012, a second interim report by June 30,  
1694 | 2013, and a final report by June 30, 2015. The report shall include results of demonstration  
1695 | projects in Virginia, results of the use of quiet pavement in other states, a plan for routine  
1696 | implementation of quiet pavement, and any safety, cost, or performance issues that have been  
1697 | identified by the demonstration projects.

1698 | C. The governing body of any ~~county, city, or town~~ locality, at its own expense, may  
1699 | evaluate noise from highways it may designate for analysis. Such evaluation shall be accepted  
1700 | and relied upon by the Department if such evaluation is prepared in accordance with and  
1701 | complies with applicable federal law, regulations, and requirements, as well as guidelines and  
1702 | policies issued by the ~~Commonwealth Transportation~~ Board, relating to noise abatement and  
1703 | evaluation. This provision shall not apply to projects for which the ~~Virginia~~ Department ~~of~~  
1704 | ~~Transportation~~ is required to perform a noise analysis.



**Drafting note: Existing § 33.1-223.2:21 was amended by Chapter 120 of the Acts of Assembly of 2013; those changes have been incorporated into the existing language in this document. This section is moved to this proposed Article 4 on the Department because it relates to its duties and responsibilities. Technical changes are made.**

§ ~~33.1-195~~ 33.2-XXX. Sale of materials to, and use of equipment by, ~~cities, towns, counties, localities~~ and school boards.

The Department may lend or rent equipment and sell materials and supplies used in the building or repairing of ~~roads~~ highways and streets to any ~~city, town, county, locality~~ or school board, upon such terms and conditions as may be agreed upon by the Department and such ~~city, town, county, locality~~ or school board. ~~Provided, provided that~~ the governing body of ~~such city, town, county, locality~~ or school board submits to the Department a certificate setting forth that the material or equipment cannot be furnished from private sources within a reasonable time. ~~Provided, further, that the foregoing provide~~ This section shall not apply to towns with a population of less than 3,500 inhabitants or to the purchase of paint for traffic marking purposes by any ~~city, town, county, locality~~ or school board.

**Drafting note: Existing § 33.1-195 was amended by Chapters 585 and 646 of the Acts of Assembly of 2013; those changes have been incorporated into the existing language in this document. This section is moved to this proposed Article 4 on the Department because it relates to its duties and responsibilities. References are changed from "road" to "highway" and references to "city, town, county" are changed to "locality" to maintain consistency throughout proposed Title 33.2. Technical changes are also made.**

§ ~~33.1-207~~ 33.2-XXX. Facilities for persons desiring to fish from bridges.

The Department may, ~~in its discretion,~~ upon the request in writing of any department or agency of the Commonwealth, construct and maintain, on or in connection with any bridges ~~which that~~ now constitute a part of any system of state highways, ~~such~~ platforms, walkways, or other facilities as may be necessary or proper for the safety and convenience of persons who desire to fish therefrom, ~~the~~ The cost ~~thereof to shall~~ be paid out of funds furnished by the

department or agency making the request from its own funds or funds furnished to such department or agency by gift from private sources. The Department ~~of Transportation~~ shall not be held responsible for damage caused by the construction or use of such facilities.

**Drafting note: Existing § 33.1-207 was amended by Chapters 585 and 646 of the Acts of Assembly of 2013; those changes have been incorporated into the existing language in this document. This section is moved to this proposed Article 4 on the Department because it relates to its duties and responsibilities. Technical changes are made.**

~~§ 33.1-208 33.2-XXX.~~ Use of streams and lowlands obstructed by newly constructed highways as fishponds or water storage areas.

Whenever any highway is being constructed and the highway is to pass over any stream or lowland the obstruction of which is necessary to such construction or if the present highway construction can be utilized to provide a suitable dam for a fishpond or water storage area, then upon application of the adjacent property owner requesting that it be so used, the Department may permit such use, provided that such dam ~~should~~ shall be subject to the provisions of ~~Article 14 (§ 33.1-176 et seq.) of this chapter, §§ 33.2-XXX through 33.2-XXX~~ and any additional cost incurred ~~thereby~~ shall be borne by ~~such the requesting~~ property owner.

**Drafting note: Existing § 33.1-208 was amended by Chapters 585 and 646 of the Acts of Assembly of 2013; those changes have been incorporated into the existing language in this document. Technical changes are made.**

~~§ 33.1-196 33.2-XXX. Oiling of highways Treatment of highway surfaces for dust control.~~

The Department may ~~oil the highways~~ treat highway surfaces for stabilization and dust control in any town in ~~this the~~ Commonwealth upon request of the ~~council thereof governing body of such town~~ and may ~~oil the highways~~ treat highway surfaces for stabilization and dust control in any county of ~~this the~~ Commonwealth, the secondary ~~roads~~ highways within which are not a part of the secondary state highway system ~~of state highways~~, upon request of the ~~board of supervisors or other~~ governing body thereof; provided that such ~~council or such board~~

~~of supervisors or other county or town~~ governing body, ~~as the case may be,~~ shall pay to the Department the cost of such ~~oiling treatment~~. This section ~~does apply~~ applies to any highway ~~which that~~ is a part of the ~~State Highway System~~ primary or ~~the~~ secondary state highway system ~~of state highways~~.

**Drafting note: Existing § 33.1-196 was amended by Chapters 585 and 646 of the Acts of Assembly of 2013; those changes have been incorporated into the existing language in this document. Technical changes are made.**

~~Chapter 10.1~~ Article 5.

~~DEPARTMENT OF RAIL AND PUBLIC TRANSPORTATION~~ Department of Rail and Public Transportation.

**Drafting note: Existing Chapter 10.1 of Title 33.1 is now proposed Article 5 of Chapter 2 of Title 33.2, composed of sections relating to the Department of Rail and Public Transportation.**

~~§ 33.1-391.1~~ 33.2-XXX. Department of Rail and Public Transportation; establishment and agreement.

Upon establishment of the Department of Rail and Public Transportation, the Department of Rail and Public Transportation shall enter into an agreement with the Department of Transportation and the Commonwealth Transportation Board, to be signed by the Secretary of Transportation, the Commonwealth Transportation Commissioner, and the Director of the Department of Rail and Public Transportation, providing that administrative, research, policy analysis, planning, right-of-way acquisition, and such other services as are currently provided by the Department of Transportation shall continue to be provided to the Department of Rail and Public Transportation under the same arrangements as are currently provided to the Directorate of Public Transportation.

**Drafting note: This section is currently not set out in full in the Code but is retained per the Department of Rail and Public Transportation.**

§ ~~33.1-391.2~~ 33.2-XXX. Department of Rail and Public Transportation created; appointment of Director.

There is hereby created a Department of Rail and Public Transportation reporting to the Secretary of Transportation and subject to the policy oversight of the Commonwealth Transportation Board. The Department shall be headed by a Director, ~~hereinafter referred to in this title as "Director,"~~ who shall be appointed by and serve at the pleasure of the Governor. The Director shall serve as a nonvoting ~~ex officio~~ ex officio member of the ~~Commonwealth Transportation~~ Board and any committee of the Board dealing with passenger and freight rail, transportation demand management, ridesharing, and public transportation issues.

**Drafting note: Technical changes are made, including omitting the definition of "Director," which is now included in the preceding definitions section.**

§ ~~33.1-391.3~~ 33.2-XXX. (Effective July 1, 2014) Powers and duties of the Director of the Department of Rail and Public Transportation.

Except such powers as are conferred by law upon the ~~Commonwealth Transportation~~ Board, or such services as are performed by the Department of Transportation pursuant to law, the Director of the Department of Rail and Public Transportation shall have the power to do all acts necessary or convenient for establishing, maintaining, improving, and promoting public transportation, transportation demand management, ridesharing, and passenger and freight rail transportation in the Commonwealth and to procure architectural and engineering services for rail and public transportation projects as specified in § 2.2-4302.2.

**Drafting note: Existing § 33.1-391.3 was amended by Chapter 583 of the Acts of Assembly of 2013 with a delayed effective date of July 1, 2014; those changes have been incorporated into the existing language in this document. A technical change is made.**

~~§ 33.1-391.3:1.~~

**Drafting note: Repealed by Chapters 86, 594, and 681 of the Acts of Assembly of 2011.**

§ ~~33.1-391.4~~ 33.2-XXX. General powers of the Department of Rail and Public Transportation.

The Department of Rail and Public Transportation shall have the following general powers:

1. To accept grants from the United States government and agencies and instrumentalities thereof and any other source. To these ends, the Department of Rail and Public Transportation shall have the power to comply with such conditions and execute such agreements as may be necessary, convenient or desirable;

2. To make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this chapter, including ~~but not limited to~~, contracts with the United States government, other states, agencies and governmental subdivisions of Virginia, and other appropriate public and private entities;

3. To assist other appropriate entities, public or private, in the implementation and improvement of passenger and freight rail, transportation demand management, ridesharing, and public transportation services and the retention of rail corridors for public purposes;

4. To represent and promote the Commonwealth's interests in passenger and freight rail, transportation demand management, ridesharing, and public transportation; and

5. To acquire and hold title to the land necessary to construct railway lines in order to reduce traffic congestion on highways and shift traffic to rail transportation. To acquire by any means whatsoever, lease, improve, and construct railway lines, passenger and freight rail, transportation demand management, ridesharing, and public transportation facilities, and passenger and freight rail, transportation demand management, ridesharing, and public transportation equipment determined to be for the common good of the Commonwealth or a region of the Commonwealth and ~~to~~ assist other appropriate entities in the implementation and improvement of passenger and freight rail, transportation demand management, ridesharing, and public transportation services and the retention of rail corridors for public purposes.

**Drafting note: Existing § 33.1-391.4 was amended by Chapter 211 of the Acts of Assembly of 2013; those changes have been incorporated into the existing language in this document. Technical changes are made, including removing the language "but not limited to" per the definition of "includes" in § 1-218.**

§ ~~33.1-391.5~~ 33.2-XXX. Responsibilities of Department of Rail and Public Transportation.

The Department of Rail and Public Transportation shall have the ~~following responsibilities~~ responsibility to:

1. Determine present and future needs for, and economic feasibility of providing, public transportation, transportation demand management, and ridesharing facilities and services and the retention, improvement, and addition of passenger and freight rail transportation in the Commonwealth;

2. Formulate and implement plans and programs for the establishment, improvement, development and coordination of public transportation, transportation demand management, and ridesharing facilities and services, and the development, retention, and improvement of passenger and freight rail transportation services and corridors in the Commonwealth, including lines for higher speed passenger rail that will shift traffic from the highways to passenger rail and thereby reduce traffic congestion, and coordinate transportation demand management and innovative technological transportation initiatives with the Department of Transportation;

3. Coordinate with the Department of Transportation in the conduct of research, policy analysis, and planning for the rail and public transportation modes as may be appropriate to alleviate traffic congestion on highways by shifting traffic to passenger rail and to ensure the provision of effective, safe, and efficient public transportation and passenger and freight rail services in the Commonwealth;

4. Develop uniform financial and operating data on and criteria for evaluating all public transportation activities in the Commonwealth, develop specific methodologies for the collection of such data by public transit operators, regularly and systematically verify such data

by means of financial audits and periodic field reviews of operating data collection methodologies, and develop such other information as may be required to evaluate the performance and improve the economy or efficiency of public transit or passenger and freight rail operations, transportation demand management programs, and ridesharing in the Commonwealth;

5. Compile and maintain an up-to-date inventory of all abandoned railroad corridors in the Commonwealth abandoned after January 1, 1970;

6. Provide training and other technical support services to transportation operators and ridesharing coordinators as may be appropriate to improve public transportation, ridesharing, and passenger and freight rail services;

7. Maintain liaison with state, local, district and federal agencies or other entities, private and public, having responsibilities for passenger and freight rail, transportation demand management, ridesharing, and public transportation programs;

8. Receive, administer and allocate all planning, operating, capital, and any other grant programs from the Federal Transit Administration, the Federal Railroad Administration, the Federal Highway Administration, and other agencies of the United States government for public transportation, passenger and freight rail transportation, transportation demand management, and ridesharing purposes with approval of the Board and to comply with all conditions attendant thereto;

9. Administer all state grants for public transportation, rail transportation, ridesharing, and transportation demand management purposes with approval of the Board;

10. Promote the use of public transportation, transportation demand management, ridesharing, and passenger and freight rail services to improve the mobility of Virginia's citizens and the transportation of goods;

11. Represent the Commonwealth on local, regional, and national agencies, industry associations, committees, task forces, and other entities, public and private, having

responsibility for passenger and freight rail, transportation demand management, ridesharing, and public transportation;

12. Represent the Commonwealth's interests in passenger and freight rail, transportation demand management, ridesharing, and public transportation and coordinate with the Department of Transportation in the planning, location, design, construction, implementation, monitoring, evaluation, purchase, and rehabilitation of facilities and services that affect or are used by passenger and freight rail, transportation demand management, ridesharing, or public transportation;

13. Coordinate with the State Corporation Commission on all matters dealing with rail safety inspections and rail regulations ~~which~~ that fall within its purview;

14. Prepare and review state legislation and Commonwealth recommendations on federal legislation and regulations as directed by the Secretary of Transportation;

15. Promote public transportation, ridesharing, and passenger and freight rail safety; and

16. Ensure the safety of rail fixed guideway transit systems within the Commonwealth and carry out state safety and security oversight responsibilities for rail fixed guideway transit systems as required by the Federal Transit Administration and federal law. For any rail fixed guideway transit system operated within the Commonwealth pursuant to an interstate compact, the Department shall perform its oversight responsibilities in accordance with the interstate compact governing the operation of such system and any applicable federal law.

**Drafting note: Existing § 33.1-391.5 was amended by Chapter 211 of the Acts of the Assembly of 2013; those changes have been incorporated into the existing language in this document. Technical changes are made.**

~~§§ 33.1-391.6. through 33.1-391.15.~~

**Drafting note: Repealed by Chapters 864 and 871 of the Acts of Assembly of 2009.**

~~§§ 33.1-392. through 33.1-399.~~

**Drafting note: Repealed by Chapter 778 of the Acts of Assembly of 1984.**

~~§§ 33.1-400. through 33.1-408.~~



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**Drafting note: Repealed by Chapters 815 and 842 of the Acts of Assembly of 2001.**